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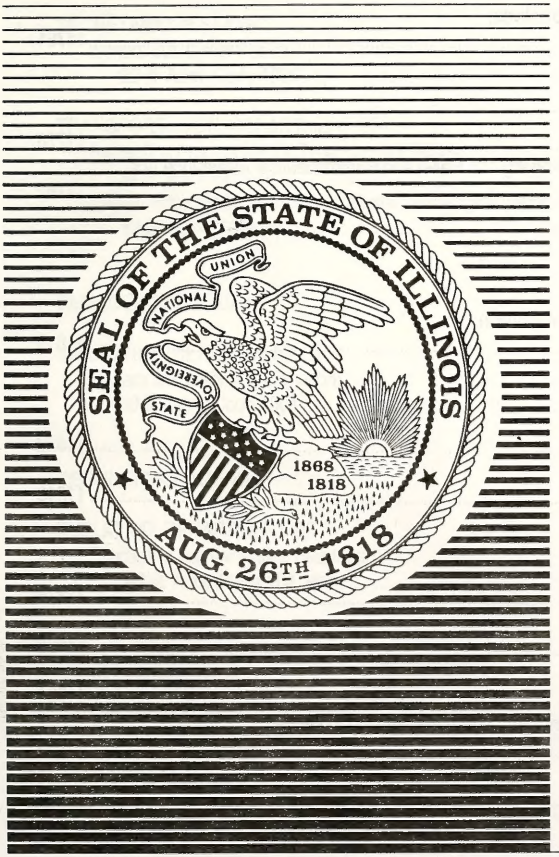
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2000 ILLINOIS REGISTER

RULES OF GOVERNMENTAL AGENCIES



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Issue 29 - July 14, 2000: Data Through June 30, 2000
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REGISTER PUBLICATION SCHEDULE 2000

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Issue 1	December 26*	January 5, 2001

* Tuesday 12 noon deadline following a state holiday.
** Monday publication date following a state holiday.

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DEPARTMENT OF FINANCIAL INSTITUTIONS

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Consumer Installment Loan Act

2) Code Citation: 38 Ill. Adm. Code 110

3)

Section Numbers:	Proposed Action:
110.300	New Section
110.310	New Section
110.320	New Section
110.330	New Section
110.340	New Section
110.350	New Section
110.360	New Section
110.370	New Section
110.380	New Section
110.390	New Section
110.400	New Section
110.410	New Section

4) Statutory Authority: 205 ILCS 670/22

5) A Complete Description of the Subjects and Issues Involved: The rule concerns regulation of Consumer Installment Loan Act licensees engaged in the business of making certain defined Short-Term Consumer Loans.

6) Will this proposed Rule replace an emergency rule currently in effect? No

7) Does this rule contain an automatic repeal date? No

8) Does the rule contain incorporation by reference? No

9) Are there any other proposed rules pending on this Part? No

10) Statement of Statewide Policy Objectives: This rule will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

11) Time, Place and Manner in which interested parties may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this notice to:

Sarah D. Vega, Director
Illinois Department of Financial Institutions
100 W. Randolph
Suite 15-700
Chicago IL 60601

12) Initial Regulatory Flexibility Analysis:

DEPARTMENT OF FINANCIAL INSTITUTIONS

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A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: Please review rule provisions.

C) Types of professional skills necessary for compliance: None

13 Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: the Department did not anticipate the passage of SB 355 under which this rulemaking is proposed.

The full text of the Proposed Rule begins on the next page:

DEPARTMENT OF FINANCIAL INSTITUTIONS

NOTICE OF PROPOSED AMENDMENTS

TITLE 38: FINANCIAL INSTITUTIONS
CHAPTER I: DEPARTMENT OF FINANCIAL INSTITUTIONS

PART 110
CONSUMER INSTALLMENT LOAN ACT

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110.15 Application for License
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110.100 Finance Charges - Rebates and Delinquency Charges
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DEPARTMENT OF FINANCIAL INSTITUTIONS

NOTICE OF PROPOSED AMENDMENTS

110.330 Renewal of License
110.340 Simple Interest
110.350 Release of Lien
110.360 Availability of Debt Management Services
110.370 Lending Limits and Refinancing
110.380 Second Notice
110.390 Possession of Vehicle
110.400 Loan Proceeds
110.410 Security Interest

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TABLE B Rule of 78 Percentage Rebate Table (Repealed)

AUTHORITY: Implementing and authorized by Section 22 of the Consumer Installment Loan Act [205 ILCS 670/22].

SOURCE: Filed and effective June 19, 1970; amended at 3 Ill. Reg. 24, p. 16, effective June 15, 1979; emergency amendment at 4 Ill. Reg. 5, p. 372, effective January 16, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 36, p. 138, effective September 22, 1980; amended at 5 Ill. Reg. 1352, effective February 3, 1981; codified at 7 Ill. Reg. 11721; amended at 9 Ill. Reg. 1343, effective January 17, 1985; amended at 11 Ill. Reg. 2749, effective January 28, 1987; emergency amendment at 11 Ill. Reg. 14141, effective August 7, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 10456, effective June 7, 1988; amended at 19 Ill. Reg. 44, effective December 22, 1994; amended at 20 Ill. Reg. 5799, effective April 8, 1996; emergency amendment at 22 Ill. Reg. 1485, effective January 2, 1998, for a maximum of 150 days; emergency expired May 31, 1998; amended at 22 Ill. Reg. 13657, effective July 14, 1998; amended at 24 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 110.1 Definitions

Obligor means the person to whom the proceeds of a loan are delivered or on whose behalf the proceeds of a loan are expended.

Uniform Commercial Code means 810 ILCS 5.

Act means the Consumer Installment Loan Act [205 ILCS 670].

Date of the loan means the date on which the loan agreement is signed or accepted by the lender.

Department means the Department of Financial Institutions.

DEPARTMENT OF FINANCIAL INSTITUTIONS

NOTICE OF PROPOSED AMENDMENTS

Director means the Director of the Department of Financial Institutions.

Generally accepted accounting procedures means those adopted by the American Institute of Certified Public Accountants and Federal Accounting Standards Board.

Hypothecate means to pledge a security instrument without transfer of Title.

Insurance Code means 215 ILCS 5.

Recording fee is a fee paid to a government agency to record or release a security instrument.

Sales Finance Agency Act means 205 ILCS 660.

(Source: Amended at 22 Ill. Reg. 13657, effective July 14, 1998)

SUBPART B: SHORT TERM LENDING

Section 110.300 Definitions

"Short-term loan" means a loan made by a lender that does not accept insured deposits, upon which interest is charged at an annual percentage rate exceeding 36 percent and for a term of not more than 30 days in the case of a non-title-secured loan or for a term not more than 60 days in the case of a title-secured loan.

"Title-secured loan" shall mean a loan wherein, at consummation, an obligor provides to the licensee at that time, as security for the loan, physical possession of the obligor's title to a motor vehicle.

"Short-term lender" shall mean any lender engaged in making any short-term loans.

"Interest bearing loan" shall mean a loan in which interest is charged upon the principal amount borrowed.

"Check" shall mean a check, draft or other negotiable instrument used for the payment of money.

"Refinance" shall mean to renew or extend a loan beyond its original term.

(Source: Added at 24 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL INSTITUTIONS

NOTICE OF PROPOSED AMENDMENTS

Section 110.310 Applicability of Rule

The rules contained in this Subpart B, as well as those contained in Subpart A, shall apply to any short-term lender as defined in Section 110.300 of this Part.

(Source: Added at 24 Ill. Reg. _____, effective _____)

Section 110.320 Application for License

In addition to the licensing requirements of Section 110.15 of this Part, a short-term lender making application for license shall provide, as part of the application submitted to the Department, any evidence that the Director may require showing compliance with any and all applicable local ordinances pertaining to the applicant's proposed business.

(Source: Added at 24 Ill. Reg. _____, effective _____)

Section 110.330 Renewal of License

At the time of renewal of license, and in addition to paying the fees and complying with the other requirements of the Act, a short-term lender must submit any evidence that the Director may require showing compliance with any and all applicable local ordinances pertaining to the licensed business.

(Source: Added at 24 Ill. Reg. _____, effective _____)

Section 110.340 Simple Interest

A short-term lender must compute interest on all short-term loans as simple interest as defined in Section 110.80 of this Part.

(Source: Added at 24 Ill. Reg. _____, effective _____)

Section 110.350 Release of lien

a) A short-term lender that secures the loan by a title to a motor vehicle must immediately take into possession evidence of the debtor's ownership in the motor vehicle that has been registered with the Illinois Secretary of State and shall note on the face of the loan agreement the vehicle's make, model, year of manufacture, and vehicle identification number.

b) Within 24 hours after payment in full of the amount due under the agreement, the licensee must release any filed or recorded liens,

provide evidence of such release of lien to the debtor and return the title to the debtor or cause the title to be returned to the debtor.

(Source: Added at 24 Ill. Reg. _____, effective _____)

Section 110.360 Availability of Debt Management Services

a) Before entering into a short-term loan agreement, licensee must give to the borrower a pamphlet, approved by the Director, describing the availability of debt management services and the borrower's rights and responsibilities in the transaction.

b) Each short-term loan agreement and refinancing agreement executed by a licensee shall include a statement, which shall be initialed by the borrower, as follows: "I have received from (name of lender) a toll free number from the Department of Financial Institutions that I can call for information regarding debt management services."

c) At the time a short-term lender conveys any written notice to a borrower indicating the borrower is in arrears or that the borrower is in default, the lender shall include with the notice a statement indicating a toll free number of the Department of Financial Institutions that the borrower may contact for the purpose of the borrower receiving information from the Department regarding debt management services. The form and method of providing the information shall be subject to approval of the Department.

(Source: Added at 24 Ill. Reg. _____, effective _____)

Section 110.370 Lending Limits and Refinancing

a) A short-term loan that is not title-secured may not exceed $300 in principal amount. A short-term title-secured loan may not exceed $2,000 in principal amount. However, no loan shall be made in such amount that the principal and interest payments for the stated duration of the loan exceed 50 percent of the borrower's gross income for that period.

b) A short-term loan may be refinanced a maximum number of 2 times, but only when the outstanding balance of the loan has been reduced by at least 25%. If a short-term loan is secured by a post-dated check, the post-dated check must name the lender as payee.

c) No loan, other than the refinancing of an existing short-term loan, may be made to a borrower who has had an outstanding short-term loan within the preceding 30 days.

d) The loan agreement must include a separate statement signed by the debtor attesting that the borrower has not had an outstanding short-term loan within the preceding 30 days. The lender shall further verify the statement by means of any database created by or

approved by the Director for that purpose.

e) The loan agreement shall advise the borrower that matters involving improprieties in the making of the loan or in loan collection practices may be referred to the Department and shall prominently disclose the Department's address and telephone number.

f) Each short-term loan refinancing agreement executed by a licensee shall include a statement, which shall be initialed by the borrower, as follows: "I have received from (name of lender) a toll free number from the Department of Financial Institutions that I can call for information regarding debt management service."

(Source: Added at 24 Ill. Reg. _____, effective _____)

Section 110.380 Second Notice

At the time a short-term lender conveys a second notice to a borrower indicating the borrower is in arrears or any notice that the borrower is in default for a debt issued by the lender under the Act, the licensee shall include with the notice a statement indicating a telephone number of the Department of Financial Institutions that the borrower may contact for the purpose of the borrower receiving information from the Department regarding debt management services for assisting the borrower. The form and method of the notice provided by lenders shall be subject to approval by the Director.

(Source: Added at 24 Ill. Reg. _____, effective _____)

Section 110.390 Possession of Vehicle

a) No short-term lender may require the borrower to deposit a set of vehicle keys with the lender or an agent of the lender as a condition of, or incident to, any loan.

b) No short-term lender may take possession of a vehicle without first giving notice to the borrower; affording the borrower the opportunity to make the vehicle available to the lender at a place, date and time reasonably convenient to the lender and borrower; and permitting the borrower to remove any personal belongings from the vehicle without charge or additional cost to the borrower.

c) No short-term lender may dispose of a repossessed vehicle without first giving at least 10 days written notice to the borrower prior to the sale and giving to the borrower the opportunity to cure the default. The notice shall state the date, time and place of the sale and provide the borrower with a written accounting of the amount owed on the loan.

d) No short-term lender may take possession of a motor vehicle for a loan default and lease the vehicle back to the borrower.

e) Any appraisal of the value of the motor vehicle that has been used to

DEPARTMENT OF FINANCIAL INSTITUTIONS

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secure a loan shall be limited to the vehicle's Kelly Blue Book Used Car Guide value.

(Source: Added at 24 Ill. Reg. _____, effective _____)

Section 110.400 Loan Proceeds

A lender must issue the proceeds of a short-term loan in the form of a check drawn on the licensee's bank account, in cash or by money order. When the proceeds are issued in the form of a check drawn on the lender's bank account or by money order, the lender may not charge a fee for cashing the check or money order if cashing service is offered at the location. When the proceeds are issued in cash, the lender must provide the borrower with a written verification of the cash transaction and shall maintain a record of the transaction.

(Source: Added at 24 Ill. Reg. _____, effective _____)

Section 110.410 Security Interest

A short-term lender shall not take a security interest in any of debtor's property other than the check or the debtor's motor vehicle title, as tendered to the lender at the time of the making of the loan. When a check is taken as security for a loan, the licensee must stamp or otherwise imprint upon the back of the check a notation that the check secures a deferred deposit loan made under the Act and that any holder takes the check subject to the claims and defenses of the maker.

(Source: Added at 24 Ill. Reg. _____, effective _____)

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Quality Standards and Certification Requirements for Facilities Performing Mammography

2) Code Citation: 32 Ill. Adm. Code 370

3)

Section Number:	Proposed Action:
370.10	Amendment
370.20	Amendment
370.40	Amendment
370.50	Amendment
370.60	Amendment
370.70	Amendment
370.80	Amendment
370.90	Amendment
370.110	Amendment
370.130	Amendment
370.140	Amendment
370.145	New Section
370.165	New Section

4) Statutory Authority: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40].

5) A Complete Description of the Subjects and Issues Involved: The Department is proposing this amendment to: (1) add two new Sections for mobile mammography facilities certified by another certifying entity; (2) make continuing experience requirements for radiologic technologists and medical physicists consistent with FDA deadlines; (3) provide, consistent with current FDA regulations, for the notification of patients by facilities of the results of mammography examinations; (4) provide for the issuance of a one-time interim certificate to a facility if a delay in reaccreditation occurs through no fault of the facility; and (5) clarify requirements for beam-limiting devices.

6) Will this proposed amendment replace an emergency amendment currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: The requirements imposed by this rulemaking are not expected to require local governments to establish, expand, or modify their activities in such a way as to necessitate additional expenditures from local revenues.

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENTS

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. The Department will consider fully all written comments on this proposed rulemaking submitted during the 45 day comment period. Comments should be submitted to:

Lyle J. Black
Senior Staff Attorney
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, Illinois 62704
(217) 524-0770 (voice)
(217) 782-6133 (TDD)

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities or not for profit corporations affected: The Department does not believe that this amendment will impact small businesses, small municipalities or not for profit corporations.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 2000

The full text of the Proposed Amendments begins on the next page.

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENTS

TITLE 32: ENERGY
CHAPTER II: DEPARTMENT OF NUCLEAR SAFETY
SUBCHAPTER b: RADIATION PROTECTION

PART 370
QUALITY STANDARDS AND CERTIFICATION REQUIREMENTS
FOR FACILITIES PERFORMING MAMMOGRAPHY

Section
370.10 Scope
370.20 Definitions
370.30 Incorporations by Reference
370.40 Exemptions
370.50 Requirements for Certification
370.60 Fees
370.70 Personnel Requirements
370.80 Equipment Requirements
370.90 Medical Records and Mammography Reports
370.100 Quality Assurance Requirements
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370.130 Mammography Medical Outcomes Audit
370.140 Additional Mammography Review and Patient Notification
370.145 Notification Requirements for Mobile Mammography Facilities Certified by Another Certifying Entity
370.150 Revocation of Accreditation and Revocation of Accreditation Body Approval
370.160 Suspension or Revocation of Certificates
370.165 Failure of Mobile Mammography Facilities Certifeid by Another Certifying Entity to Meet Requirements
370.170 Mammography Units Used for Localization or Biopsy Procedures

APPENDIX A Mammography Dose Measurement Protocol
APPENDIX B Mammography Phantom Image Evaluation
TABLE A Mammography Dose Evaluation Table

AUTHORITY: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40].

SOURCE: Old Part repealed at 15 Ill. Reg. 10846, effective July 15, 1991; new Part adopted by emergency rule at 22 Ill. Reg. 14972, effective August 3, 1998, for a maximum of 150 days; adopted at 22 Ill. Reg. 21915, effective December 3, 1998; amended at 24 Ill. Reg. _____, effective _____.

Section 370.10 Scope

This Part establishes quality standards and certification requirements for

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENTS

facilities performing mammography to ensure that all mammography facilities are adequately and consistently evaluated for compliance with the standards provided in this Part. The provisions of this Part are in addition to and not in substitution for other applicable provisions of 32 Ill. Adm. Code 310, 320, 340, 400, 401 and 410.

~~AGENCY NOTE: The Department recognizes that some of the standards in this Part and FDA's final mammography rule are more restrictive than the standards in FDA's interim mammography rule that is effective until April 28, 1999. In enforcing a new or more restrictive provision than that found in FDA's interim rules, the Department, in accordance with 32 Ill. Adm. Code 310, will consider whether the violation would have been a violation of FDA's interim rules or the Radiation Protection Act of 1990.~~

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 370.20 Definitions

As used in this Part, the following definitions apply:

"Accreditation body" or "body" means an entity that has been approved by FDA to accredit mammography facilities.

"Action limits" or "action levels" means the minimum and maximum values of a quality assurance measurement that can be interpreted as representing acceptable performance with respect to the parameter being tested. Values less than the minimum or greater than the maximum action limit or level indicate that corrective action shall be taken by the facility. Action limits or levels are also sometimes called control limits or levels.

"Adverse event" means an undesirable experience associated with mammography activities that include but are not limited to:

Poor image quality;

Failure to send mammography reports within 30 days to the referring physician or in a timely manner to the self-referred patient; and

Use of personnel that do not meet the requirements of Section 370.70 of this Part.

"Air kerma" means kerma in a given mass of air. The unit used to measure the quantity of air kerma is the Gray (Gy). For x-rays with energies less than 300 kiloelectronvolts (keV), 1 Gy = 100 rad.

"Breast implant" means a prosthetic device implanted in the breast.

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NOTICE OF PROPOSED AMENDMENTS

"Calendar quarter" means any one of the following time periods during a given year: January 1 through March 31, April 1 through June 30, July 1 through September 30 or October 1 through December 31.

"Category I" means medical educational activities that have been designated as Category I by the Accreditation Council for Continuing Medical Education (ACCME), the American Osteopathic Association (AOA), a state medical society or an equivalent organization.

"Certificate" means the certificate described in Section 370.50 of this Part.

"Certification" means the process of approval of a facility by the Department to provide mammography services.

"Clinical image" means a mammogram.

"Consumer" means an individual who chooses to comment or complain in reference to a mammography examination, including the patient or representative of the patient (e.g., family member or referring physician).

"Continuing education unit" or "continuing education credit" means one contact hour of training.

"Contact hour" means an hour of training received through direct instruction.

"Department" means the Department of Nuclear Safety.

"Diagnostic mammography" means mammography performed on a patient with:

clinical signs, symptoms or physical findings suggestive of breast cancer;

an abnormal or questionable screening mammogram;

a history of breast cancer with breast conservation surgery regardless of absence of clinical breast signs, symptoms or physical findings; or

augmented breasts regardless of absence of clinical breast signs, symptoms or physical findings.

AGENCY NOTE: Diagnostic mammography is also called problem-solving mammography or consultative mammography. This definition excludes mammography performed during invasive interventions for localization

or biopsy procedures.

"Direct instruction" means:

Face-to-face interaction between instructor(s) and student(s), as when the instructor provides a lecture, conducts demonstrations or reviews student performance; or

The administration and correction of student examinations by an instructor(s) with subsequent feedback to the student(s).

"Direct supervision" means that:

During joint interpretation of mammograms, the supervising interpreting physician reviews, discusses, and confirms the diagnosis of the physician being supervised and signs the resulting report before it is entered into the patient's records; or

During the performance of a mammography examination or survey of the facility's equipment and quality assurance program, the supervisor is present to observe and correct, as needed, the performance of the individual being supervised who is performing the examination or conducting the survey.

"Director" means the Director of the Department of Nuclear Safety.

"Established operating level" means the value of a particular quality assurance parameter that has been established as an acceptable normal level by the facility's quality assurance program.

"Facility" or "mammography installation" means a hospital, outpatient department, clinic, radiology practice, mobile unit, office of a physician or other facility that conducts mammography activities, including operation of equipment to produce a mammogram, processing of the mammogram, initial interpretation of the mammogram and maintaining viewing conditions for that interpretation.

"First allowable time" means the earliest time a resident physician is eligible to take the diagnostic radiology boards from an FDA-designated certifying body.

"FDA" means the Food and Drug Administration.

"Interim regulations" means the regulations entitled "Requirements for Accrediting Bodies of Mammography Facilities" (58 FR 67558-67565) and "Quality Standards and Certification Requirements for Mammography Facilities" (58 FR 67565-67572), published by FDA on December 21,

1993, and amended on September 30, 1994 (59 FR 49808-49813). These regulations established the standards that had to be met by mammography facilities in order to lawfully operate between October 1, 1994 and April 28, 1999.

"Interpreting physician" means a licensed physician who interprets mammograms and who meets the requirements of Section 370.70(a) of this Part.

"Lead interpreting physician" means the interpreting physician assigned the general responsibility for ensuring that a facility's quality assurance program meets all of the requirements of Sections 370.100, 370.110, 370.120(b) and (c) and 370.130 of this Part. The administrative title and other supervisory responsibilities of the individual, if any, are left to the discretion of the facility.

"Mammogram" means radiographic image produced through mammography.

"Mammographic modality" means a technology for radiography of the breast. Examples are screen-film mammography and digital mammography.

"Mammography" means radiography of the breast.

"Mammography equipment evaluation" means an onsite assessment of mammography unit or image processor performance by a medical physicist for the purpose of making a preliminary determination as to whether the equipment meets all of the applicable standards in this Part.

"Mammography medical outcomes audit" means a systematic collection of mammography results and the comparison of those results with outcomes data.

"Mammography unit" or "units" means an assemblage of components for the production of x-rays for use during mammography, including, at a minimum, an x-ray generator, an x-ray control, a tube housing assembly, a beam limiting device and the supporting structures for these components.

"Mean optical density" means the average of the optical densities (OD) measured using phantom thicknesses of 2, 4 and 6 centimeters with values of kilovolt peak (kVp) clinically appropriate for those thicknesses.

"Medical physicist" means a person trained in evaluating the performance of mammography equipment and facility quality assurance programs and who meets the qualifications set forth in Section 370.70(c) of this Part.

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"MQSA" means the federal Mammography Quality Standards Act of 1992, as amended by the Mammography Quality Standards Reauthorization Act of 1998.

"Multi-reading" means two or more physicians, at least one of whom is an interpreting physician, interpreting the same mammogram.

"Patient" means any individual who undergoes a mammography evaluation in a facility.

"Phantom" means a test object used to simulate radiographic characteristics of compressed breast tissue and containing components that radiographically model aspects of breast disease and cancer. It is equivalent to a nominal 4.2 centimeter compressed breast of average density (i.e., 50 percent adipose and 50 percent glandular tissue) and shall contain the following objects:

Spherical masses, composed of phenolic plastic, with thicknesses of: 2.00, 1.00, 0.75, 0.50 and 0.25 millimeter;

Specks, composed of aluminum oxide, with diameters of: 0.54, 0.40, 0.32, 0.24 and 0.16 millimeter;

Fibers, composed of nylon, with thicknesses of: 1.56, 1.12, 0.89, 0.75, 0.54 and 0.40 millimeter.

AGENCY NOTE: The Mammographic Accreditation Phantom Model 156, manufactured by Radiation Measurements, Inc., meets the above criteria and was chosen for use by the American College of Radiology's Mammography Accreditation Program.

"Phantom image" means a radiographic image of a phantom.

"Physical science" means physics, chemistry, radiation science (including medical physics and health physics) and engineering.

"Positive mammogram" means a mammogram that has an overall assessment of findings that are either "suspicious" or "highly suggestive of malignancy."

"Provisional certificate" means the provisional certificate described in Section 370.50(b) of this Part.

"Qualified instructor" means an individual whose training and experience adequately prepares him or her to carry out specified training assignments. Interpreting physicians, radiologic technologists or medical physicists who meet the requirements of Section 370.70 of this Part would be considered qualified instructors

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in their respective areas of mammography. Other examples of individuals who may be qualified instructors for the purpose of providing training to meet the requirements of this Part include, but are not limited to, instructors in a post-high school training institution and manufacturer's representatives.

"Quality control technologist" means an individual meeting the requirements of Section 370.100(a)(4) of this Part who is responsible for those quality assurance responsibilities not assigned to the lead interpreting physician or to the medical physicist.

"Radiologic technologist" means an individual specifically trained in the use of radiographic equipment and the positioning of patients for radiographic examinations and when performing mammography without direct supervision, also meets the requirements set forth in Section 370.70(b) of this Part.

"Screening mammography" means mammography performed on an asymptomatic patient to detect the presence of breast cancer at an early stage.

"Serious adverse event" means an adverse advent that may significantly compromise clinical outcomes, or an adverse event for which a facility fails to take appropriate corrective action in a timely manner.

"Serious complaint" means a report of a serious adverse event.

"Standard breast" means a 4.2 centimeter (cm) thick compressed breast consisting of 50 percent glandular and 50 percent adipose tissue.

"Survey" means an onsite physics consultation and evaluation of a facility quality assurance program performed by a medical physicist.

"Time cycle" means the film development time.

"Traceable to a national standard" means an instrument is calibrated at either the National Institute of Standards and Technology (NIST) or at a calibration laboratory that participates in a proficiency program with NIST at least once every 2 years and the results of the proficiency test conducted within 24 months of calibration show agreement within plus or minus 3 percent of the national standard in the mammography energy range.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 370.40 Exemptions

a) Mammography units used only during invasive interventions for

localization or biopsy procedures are exempt from the requirements of this Part, except that such systems shall satisfy the criteria specified in Section 370.170 of this Part.

b) Each mobile mammography facility based outside of Illinois that operates in Illinois and that has not been certified by the Department is exempt from the requirements of Section 370.50 and 370.60 of this Part, provided that:

1) The mobile mammography facility is certified to perform mammography by FDA or other FDA-approved certifying agency at all times while conducting operations in Illinois; and

2) The mobile mammography facility meets the requirements of Section 370.145 of this Part.

AGENCY NOTE: Mobile mammography facilities exempt under this subsection (b) shall meet the standards of this Part except those Sections specifically exempted.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 370.50 Requirements for Certification

a) Except as otherwise provided in subsection (b)(1)(C) of this Section and Section 370.40 of this Part, a ~~A~~ certificate issued by the Department is required for lawful operation of all mammography facilities subject to the provisions of this Part. Facilities performing mammography ~~As soon as practicable after the effective date of this Part, the Department will issue a certificate to each facility holding a currently valid certificate issued by FDA under the Mammography Quality Standards Act of 1992. The term of such certificate shall be for the same period of time as the remainder of the term of the certificate issued by FDA. Certificate holding facilities~~ shall meet the requirements of Sections 370.70, 370.80, 370.90, 370.100, 370.110, 370.120 and 370.130 of this Part and be accredited by an FDA-approved accreditation body.

AGENCY NOTE: Currently, the only FDA-approved accrediting body in Illinois is the American College of Radiology.

~~AGENCY NOTE: This subsection (a) is intended to facilitate the transition from FDA issued certificates under MQSA to Department issued certificates implementing a State program under MQSA. The Department recognizes that facilities with currently valid FDA MQSA certificates have met the standards for certificate issuance required by FDA and this Part.~~

AGENCY NOTE: Except ~~Except for the initial "grandfathered" certificates issued to facilities holding FDA certificates and except~~ for provisional certificates and interim notices, ~~to new facilities issued under this Section,~~ the term of certificates issued under this Section shall be for 3 ~~three~~ years. ~~Applications for all other certificate shall be made in accordance with this Section.~~

b) Application.

1) Certificates.

A) In order to qualify for a certificate, a facility shall apply to an ~~FDA-approved~~ accreditation body.

B) Following the Department's receipt of the accreditation body's decision to accredit a facility, the Department may issue a certificate to the facility, or renew an existing certificate, if the Department determines that the facility has satisfied the requirements for certification or recertification.

C) The Department may issue an interim notice of mammography certification by facsimile to a facility if a delay is anticipated in providing a certificate to the facility under one or more of the following circumstances:

i) The Department has been notified by an accreditation body that the facility meets the requirements for a provisional or provisional reinstatement certificate and delivery of the certificate may take more than 24 hours;

ii) The Department has been notified by an accreditation body that the facility has completed accreditation or reaccreditation and delivery of the certificate to the facility may take more than 24 hours; or

iii) The Department has been notified by an accreditation body that the facility has timely submitted an application for accreditation or reaccreditation but the completion of the accreditation process may extend beyond the expiration date of a facility's existing certificate through no fault of the facility.

An interim notice shall authorize the facility to perform mammography until the facility receives its certificate but in no case for more than 45 days. No more than one interim notice may be issued to a facility per application for certification.

2) Provisional certificates. A new facility is eligible to apply for a provisional certificate. The provisional certificate will enable the facility to perform mammography and to obtain the clinical images needed to complete the accreditation process.

A) To receive a provisional certificate, a facility shall apply and submit the required information to an FDA-approved accreditation body.

B) Following the Department's receipt of the accreditation body's decision that a facility has submitted the required information, the Department may issue a provisional certificate to a facility upon determination that the facility has satisfied the requirements for provisional certification. A provisional certificate shall be effective for up to 6 months from the date of issuance. A provisional

certificate cannot be renewed, but a facility may apply for a 90 day extension of the provisional certificate.

3) Extension of provisional certificate.

A) To apply for a 90 day extension to a provisional certificate, a facility shall submit to its accreditation body a statement of what the facility is doing to obtain certification and evidence that there would be a significant adverse impact on access to mammography in the geographic area served if such facility did not obtain an extension.

B) Following the Department's receipt of the accreditation body's decision that a facility has submitted the required information, the Department may issue a 90 day extension of the provisional certificate to the facility upon determination that the facility has satisfied the requirements for the 90 day extension.

C) There can be no renewal of a provisional certificate beyond the 90-day extension.

c) Reinstatement policy. A previously certified facility that has allowed its certificate to expire, that has been refused a renewal of its certificate by FDA or the Department, or that has had its certificate suspended or revoked by FDA or the Department, may apply for reinstatement. If reinstated, the facility will be eligible for a provisional certificate.

1) Unless prohibited from reinstatement under subsection (c)(4) of this Section, a facility applying for reinstatement shall:

A) Contact an FDA-approved accreditation body to determine the requirements for reapplication for accreditation;

B) Fully document its history as a previously provisionally certified or certified mammography facility, including the following information:

i) Name and address of the facility under which it was previously provisionally certified or certified;

ii) Name of previous owner/lessor;

iii) Facility identification number assigned to the facility under its previous certification; and

iv) Expiration date of the most recent provisional certificate or certificate; and

C) Justify application for reinstatement of accreditation by submitting to the accreditation body a corrective action plan that details how the facility has corrected deficiencies that contributed to the lapse, denial of renewal or revocation of its certificate.

2) The Department may issue a provisional certificate to a previously certified facility:

A) Following the Department's receipt of the accreditation body's decision that a facility has adequately corrected, or is in the process of correcting, pertinent deficiencies at the facility; and

B) The Department determines that the facility has taken sufficient corrective action since the lapse, denial of renewal or revocation of its previous certificate.

3) After receiving the provisional certificate, the facility may lawfully resume performing mammography services while completing the requirements for certification.

4) If a facility's certificate was revoked on the basis of an act described in Section 370.160 of this Part, no person who owned or operated that facility at the time the act occurred may own or operate a mammography facility within 2 years after the date of revocation.

d) Appeals of adverse accreditation or reaccreditation decisions. The appeals procedures described in this subsection (d) are available only for adverse accreditation or reaccreditation decisions that preclude certification or recertification by the Department.

1) Upon learning that a facility has failed to become accredited or reaccredited, the Department will notify the facility that the Department is unable to certify that facility without proof of accreditation.

2) A facility that has been denied accreditation or reaccreditation is entitled to an appeals process from the accreditation body. A facility shall avail itself of the accreditation body's appeal process before appealing that decision to the Department.

3) In the event that a facility, after availing itself of the accreditation body's appeal process, receives an adverse accreditation or reaccreditation decision, the facility may within 30 days after such adverse decision submit a request for review of the adverse accreditation or reaccrediatation decision to the Department.

4) Within 30 days following receipt of such written request, the Department shall issue a Preliminary Order and Notice of Opportunity for Hearing to the facility in accordance with 32 Ill. Adm. Code 200 stating the basis for the denial of certification or recertification.

5) Upon issuance of the Preliminary Order and Notice of Opportunity for Hearing, such provisions of 32 Ill. Adm. Code 200 shall apply as may be applicable.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 370.60 Fees

a) Except as provided in subsection (b) of this Section, the Department shall assess each certified mammography installation an annual certification fee of $750 in each State fiscal year (July 1 - June 30). The Department shall bill the mammography installation for the annual fee after July 1. The annual fee shall be due and payable

within 60 days after the date of billing. Failure to pay the required fee may result in revocation of the certificate.

AGENCY NOTE: ~~For mammography installations holding valid FDA mammography certificates on the effective date of this Part, the initial annual fee shall be billed as soon as practicable after the effective date of this Part.~~ The annual fee described in subsection (a) of this Section applies to both fully and provisionally certified mammography installations.

b) A new mammography installation issued an initial provisional certificate after December 31 of any State fiscal year shall not be required to pay a certification fee for that State fiscal year.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 370.70 Personnel Requirements

Personnel. The following requirements apply to all personnel involved in any aspect of mammography, including the production, processing, and interpretation of mammograms and related quality assurance activities:

a) Interpreting physicians. All physicians interpreting mammograms shall meet the following qualifications:

1) Initial qualifications. Unless the exemption in subsection (a)(3) of this Section applies, before beginning to interpret mammograms independently, the interpreting physician shall:

A) Be a physician licensed under the Medical Practice Act of 1987 to practice medicine in all its branches [225 ILCS 60];

B) Be certified in diagnostic radiology by either the American Board of Radiology, the American Osteopathic Board of Radiology, or Royal College of Physicians and Surgeons of Canada or have had at least 3 months of documented formal training in the interpretation of mammograms and in topics related to mammography. The training shall include instruction in radiation physics, including radiation physics specific to mammography, radiation effects and radiation protection. The mammographic interpretation component shall be under the direct supervision of a physician who meets the requirements of subsection (a) of this Section;

C) Have a minimum of 60 hours of documented medical education in mammography, which shall include instruction in the interpretation of mammograms and education in basic breast anatomy, pathology, physiology, technical aspects of mammography and quality assurance and quality control in mammography. All 60 of these hours shall be Category I and at least 15 of the Category I hours shall have been acquired within the 3 years immediately prior to the date that the physician qualifies as an interpreting physician. Hours

spent in residency specifically devoted to mammography will be considered as equivalent to Category I continuing medical education credits and will be accepted if documented in writing by the appropriate representative of the training institution; and

D) Unless the exemption in subsection (a)(3) of this Section applies, have interpreted or multi-read at least 240 mammographic examinations within the 6 month period immediately prior to the date that the physician qualifies as an interpreting physician. This interpretation or multi-reading shall be under the direct supervision of an interpreting physician.

2) Continuing experience and education. All interpreting physicians shall maintain their qualifications by meeting the following requirements:

A) Following the second anniversary date of the end of the calendar quarter in which the requirements of subsection (a)(1) of this Section were completed, the interpreting physician shall have interpreted or multi-read at least 960 mammographic examinations during the 24 months immediately preceding the date of the facility's annual MQSA inspection, or the last day of the calendar quarter preceding the inspection or any date in between the two. The facility will choose one of these dates to determine the 24 month period.

B) Following the third anniversary date of the end of the calendar quarter in which the requirements of subsection (a)(1) of this Section were completed, the interpreting physician shall have taught or completed at least 15 Category I continuing medical education units in mammography during the 36 months immediately preceding the date of the facility's annual MQSA inspection, or the last day of the calendar quarter preceding the inspection or any date in between the two. The facility will choose one of these dates to determine the 36 month period. This training shall include at least 6 Category I continuing medical education credits in each mammographic modality used by the interpreting physician in his or her practice.

C) Before an interpreting physician may begin independently interpreting mammograms produced by a new mammographic modality, that is, a mammographic modality in which the physician has not previously been trained, the interpreting physician shall have at least 8 hours of training in the new mammographic modality.

D) Units earned through teaching a specific course can be counted only once towards the 15 units required by subsection (a)(2) of this Section, even if the course is taught multiple times during the previous 36 months.

3) Exemptions.
 A) Those physicians who qualified as interpreting physicians under FDA's interim regulations prior to April 28, 1999, are considered to have met the initial requirements of subsection (a)(1) of this Section. These physicians may continue to interpret mammograms provided they continue to meet the requirements of subsection (a)(1) of this Section and the continuing experience and education requirements of subsection (a)(2) of this Section.
 B) Physicians who have interpreted or multi-read at least 240 mammographic examinations under the direct supervision of an interpreting physician in any 6 month period during the last 2 years of a diagnostic radiology residency and who become appropriately board certified at the first allowable time, as defined by an eligible certifying body, are otherwise exempt from subsection (a)(1)(D) of this Section.
4) Reestablishing qualifications. Interpreting physicians who fail to maintain the required continuing experience or continuing education requirements of subsection (a)(2) of this Section, shall reestablish their qualifications before resuming the independent interpretation of mammograms as follows:
 A) Interpret or multi-read at least 240 mammographic examinations under the direct supervision of an interpreting physician, or interpret or multi-read a sufficient number of mammographic examinations, under the direct supervision of an interpreting physician, to bring the physician's total up to 960 examinations for the prior 24 months, whichever is less.
 B) Interpreting physicians who fail to meet the continuing education requirements of subsection (a)(2)(B) of this Section shall obtain a sufficient number of additional Category I continuing medical education credits in mammography to bring their total up to the required 15 credits in the previous 36 months before resuming independent interpretation.
 C) The interpretations required under this Section shall be done within the 6 months immediately prior to resuming independent interpretation.

b) Radiologic technologists who perform mammographic examinations shall be accredited by the Department and shall meet the following:
 1) Training requirements.
 A) Have, prior to April 28, 1999, qualified as a radiologic technologist under FDA's interim regulations; or
 B) Complete at least 40 contact hours of documented training specific to mammography under the supervision of a qualified instructor. The hours of documented training shall include, but not necessarily be limited to:
 i) Training in breast anatomy and physiology, positioning and compression, quality assurance/quality control techniques and imaging of patients with breast implants;
 ii) The performance of a minimum of 25 examinations under the direct supervision of an individual qualified under subsection (b) of this Section; and
 iii) At least 8 hours of training in each mammography modality to be used by the technologist in performing mammography exams.
 2) Continuing education requirements.
 A) Following the third anniversary date of the end of the calendar quarter in which the requirements of subsection (b)(1) of this Section were completed, the radiologic technologist who performs mammography shall have taught or completed at least 15 continuing education units in mammography during the 36 months immediately preceding the date of the facility's annual MQSA inspection, or the last day of the calendar quarter preceding the inspection or any date in between the two. The facility will choose one of these dates to determine the 36 month period.
 B) Units earned through teaching a specific course can be counted only once towards the 15 hours of continuing education requirements required in subsection (b)(2) of this Section, even if the course is taught multiple times during the previous 36 months.
 C) At least 6 of the continuing education units required in subsection (b)(2) of this Section shall be related to each mammographic modality used by the technologist.
 D) Requalification. Radiologic technologists who fail to meet the continuing education requirements of subsection (b)(2)(A) of this Section shall obtain a sufficient number of continuing education units in mammography to bring their total up to at least 15 in the previous 3 years, at least 6 of which shall be related to each modality used by the technologist in mammography. The technologist shall not resume performing unsupervised mammography examinations until the continuing education requirements are completed.
 E) Before a radiologic technologist may begin independently performing mammography examinations using a mammographic modality other than one of those for which the technologist received training under subsection (b)(1)(B)(iii) of this Section, the technologist shall have at least 8 hours of continuing education units in the new modality.
 3) Continuing experience requirements.
 A) Following the second anniversary date of the end of the calendar quarter in which the requirements of subsection (b)(1) of this Section were completed or of April 28, 1999 ~~October 28, 1997~~, whichever is later, the radiologic

technologist shall have performed a minimum of 200 mammography examinations during the 24 months immediately preceding the date of the facility's annual MQSA inspection, or the last day of the calendar quarter preceding the inspection or any date in between the two. The facility will choose one of these dates to determine the 24 month period.

B) Requalification. Radiologic technologists who fail to meet the continuing experience requirements of subsection (b)(3)(A) of this Section shall perform a minimum of 25 mammography examinations under the direct supervision of a qualified radiologic technologist before resuming the performance of unsupervised mammography.

C) Programs, courses or other activities intended to meet the requirement for initial, or requalification, mammography training or continuing education in mammography shall be approved by the Department.

D) Completion of initial, or requalification, mammography training and continuing education in mammography shall be verified to the Department.

c) Medical physicists. All medical physicists conducting surveys of mammography facilities and providing oversight of the facility quality assurance program shall be approved by the Department as diagnostic imaging specialists pursuant to 32 Ill. Adm. Code 410, and meet the following:

1) Initial qualifications.

A) Be ~~approved by the Department as diagnostic imaging specialists pursuant to 32 Ill. Adm. Code 360.20 or be~~ certified in diagnostic radiological physics or radiological physics by either the American Board of Radiology (ABR) or the American Board of Medical Physics (ABMP);

B) Have a masters degree or higher in a physical science from an accredited institution, with no less than 20 semester hours or equivalent (e.g., 30 quarter hours) of college undergraduate or graduate level physics;

C) Have 20 contact hours of documented specialized training in conducting surveys of mammography facilities; and

D) Have the experience of conducting surveys of at least 1 mammography facility and a total of at least 10 mammography units. No more than one survey of a specific unit within a period of 60 days can be counted towards the total mammography unit survey requirement. After April 28, 1999, experience conducting surveys shall be acquired under the direct supervision of a medical physicist who meets all the requirements of subsections (c)(1), (c)(2) and (c)(3) of this Section.

2) Alternative initial qualifications.

A) Have qualified as a medical physicist under FDA's interim

regulations and retained that qualification by maintenance of the active status of any licensure, approval or certification required;

B) Have, prior to April 28, 1999, obtained a bachelor's degree or higher in a physical science from an accredited institution with no less than 10 semester hours or equivalent of college undergraduate or graduate level physics;

C) Have 40 contact hours of documented specialized training in conducting surveys of mammography facilities; and

D) Have the experience of conducting surveys of at least 1 mammography facility and a total of at least 20 mammography units. No more than one survey of a specific unit within a period of 60 days can be counted towards the total mammography unit survey requirement. The training and experience requirements shall be met after fulfilling the degree requirement.

3) Continuing education and experience. All medical physicists shall maintain their qualifications by meeting the following requirements:

A) Continuing education. Beginning 3 years after the end of the calendar quarter in which the requirements of subsection (c)(1) or (c)(2) of this Section were completed, the medical physicist shall have taught, or completed, at least 15 continuing education units in mammography during the 36 months immediately preceding the date of the facility's annual inspection, or the last day of the calendar quarter preceding the inspection or any date in between the two. The facility shall choose one of these dates to determine the 36 month period. This continuing education shall include hours of training appropriate to each mammographic modality evaluated by the medical physicist during his or her surveys or oversight of quality assurance programs. Units earned through teaching a specific course can be counted only once towards the required 15 continuing education units in a 36 month period, even if the course is taught multiple times during the 36 months.

B) Continuing experience. Beginning 2 years after the end of the calendar quarter in which the requirements of subsection (c)(1) or (c)(2) of this Section were completed or of April 28, 1999 ~~October 28, 1997~~, whichever is later, the medical physicist shall have surveyed at least 2 mammography facilities and a total of at least 6 mammography units during the 24 months immediately preceding the date of the facility's annual MQSA inspection, or the last day of the calendar quarter preceding the inspection or any date in between the two. The facility shall choose one of these dates to determine the 24 month period. No more than one

survey of a specific facility within a 10 month period or a specific unit within a period of 60 days can be counted towards the total mammography unit survey requirement.

C) Before a medical physicist may begin independently performing mammographic surveys of a new mammographic modality, that is, a mammographic modality other than one for which the physicist received training to qualify under subsection (c)(1) or (c)(2) of this Section, the physicist shall receive at least 8 hours of training in surveying units of the new mammographic modality.

4) Reestablishing qualifications. Medical physicists who fail to maintain the required continuing education and experience qualifications of subsection (c)(3) of this Section may not perform the MQSA surveys without the supervision of a qualified medical physicist. Before independently surveying another facility, medical physicists shall reestablish their qualifications, as follows:

A) Medical physicists who fail to meet the continuing educational requirements of subsection (c)(3)(A) of this Section shall obtain a sufficient number of continuing education units to bring their total units up to the required 15 units in the previous 3 years.

B) Medical physicists who fail to meet the continuing experience requirement of subsection (c)(3)(B) of this Section shall complete a sufficient number of surveys under the direct supervision of a medical physicist who meets the qualifications of subsection (c)(1) or (c)(2) of this Section, to bring their total surveys up to the required 2 facilities and 6 units in the previous 24 months. No more than one survey of a specific unit within a period of 60 days can be counted towards the total mammography unit survey requirement.

d) Retention of personnel records. Facilities shall maintain records to document the qualifications of all personnel who worked at the facility as interpreting physicians, radiologic technologists or medical physicists. These records shall be available for review by the Department. Records of personnel no longer employed by the facility shall not be discarded until the next annual inspection has been completed and the Department has determined that the facility is in compliance with the personnel requirements of this Section.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 370.80 Equipment Requirements

The equipment requirements of this Section are intended to ensure that mammography equipment is capable of producing quality mammograms over the full

range of clinical conditions.

a) Prohibited equipment. Radiographic equipment designed for general purpose shall not be used for mammography. Mammography shall only be performed with a special purpose radiation machine specifically designed for and used solely for mammography procedures.

b) General. All radiographic equipment used for mammography shall be certified under the "Performance Standards for Diagnostic X-Ray Systems and their Major Components," published at 21 CFR 1020.30, effective as of April 1, 1997.

c) Motion of tube-image receptor assembly.

1) The assembly shall be capable of being fixed in any position where it is designed to operate. Once fixed in any such position, it shall not undergo unintended motion.

2) The mechanism ensuring compliance with subsection (c)(1) of this Section shall not fail in the event of power interruption.

d) Image receptor sizes.

1) Systems using screen-film image receptors shall provide, at a minimum, for operation with image receptors of 18 x 24 centimeters (cm) and 24 x 30 cm.

2) Systems using screen-film image receptors shall be equipped with moving grids matched to all image receptor sizes provided.

3) Systems used for magnification procedures shall be capable of operation with the grid removed from between the source and image receptor.

e) Beam limitation and light fields.

1) All systems shall have beam-limiting devices ~~that allow the useful beam to extend to or beyond the chest wall edge of the image receptor~~.

2) For any mammography system with a light beam that passes through the x-ray beam-limiting device, the light shall provide an average illumination of not less than 160 lux (15 foot candles) at 100 cm or the maximum source-image receptor distance (SID), whichever is less.

f) Magnification.

1) Systems used to perform noninterventional problem solving procedures shall have radiographic magnification capability available for use by the operator.

2) Systems used for magnification procedures shall provide, at a minimum, at least one magnification value within the range of 1.4 to 2.0.

g) Focal spot selection.

1) When more than one focal spot is provided, the system shall indicate, prior to exposure, which focal spot is selected.

2) When more than one target material is provided, the system shall indicate, prior to exposure, the preselected target material.

3) When the target material and/or focal spot is selected by a system algorithm that is based on the exposure or on a test exposure, the system shall display, after the exposure, the

target material and/or focal spot actually used during the exposure.

h) Compression. All mammography systems shall incorporate a compression device.
 1) Application of compression. Effective October 28, 2002, each system shall provide:
 A) An initial power-driven compression activated by hands-free controls operable from both sides of the patient; and
 B) Fine adjustment compression controls operable from both sides of the patient.
 2) Compression paddle.
 A) Systems shall be equipped with different sized compression paddles that match the sizes of all full-field image receptors provided for the system. Compression paddles for special purposes, including those smaller than the full size of the image receptor (for "spot compression") may be provided. Such compression paddles for special purposes are not subject to the requirements of subsections (h)(2)(D) and (h)(2)(E) of this Section.
 B) Except as provided in subsection (h)(2)(C) of this Section, the compression paddle shall be flat and parallel to the breast support table and shall not deflect from parallel by more than 1.0 cm at any point on the surface of the compression paddle when compression is applied.
 C) Equipment intended by the manufacturer's design to not be flat and parallel to the breast support table during compression shall meet the manufacturer's design specifications and maintenance requirements.
 D) The chest wall edge of the compression paddle shall be straight and parallel to the edge of the image receptor.
 E) The chest wall edge may be bent upward to allow for patient comfort but shall not appear on the image.

i) Technique factor selection and display.
 1) Manual selection of milliampere seconds (mAs) or at least one of its component parts (milliampere (mA) and/or time) shall be available.
 2) The technique factors (peak tube potential in kilovolt (kV) and either tube current in mA and exposure time in seconds or the product of tube current and exposure time in mAs) to be used during an exposure shall be indicated before the exposure begins, except when automatic exposure controls (AEC) are used, in which case the technique factors that are set prior to the exposure shall be indicated.
 3) Following AEC mode use, the system shall indicate the actual kilovoltage peak (kVp) and mAs used during the exposure. The mAs may be displayed as mA and time.

j) Automatic exposure control.
 1) Each screen-film system shall provide an AEC mode that is

operable in all combinations of equipment configuration provided, e.g., grid, nongrid, magnification, nonmagnification and various target-filter combinations.
 2) The positioning or selection of the detector shall permit flexibility in the placement of the detector under the target tissue.
 A) The size and available positions of the detector shall be clearly indicated at the x-ray input surface of the breast compression paddle.
 B) The selected position of the detector shall be clearly indicated.
 3) The system shall provide means for the operator to vary the selected optical density from the normal (zero) setting.

k) X-ray film. The facility shall use x-ray film for mammography that has been designated by the film manufacturer as appropriate for mammography.

l) Intensifying screens. The facility shall use intensifying screens for mammography that have been designated by the screen manufacturer as appropriate for mammography and shall use film that is matched to the screen's spectral output as specified by the manufacturer.

m) Film processing solutions. For processing mammography films, the facility shall use chemical solutions that are capable of developing the films used by the facility in a manner equivalent to the minimum requirements specified by the film manufacturer.

n) Lighting. The facility shall make special lights for film illumination, i.e., hot-lights, capable of producing light levels greater than that provided by the view box, available to the interpreting physicians.

o) Film masking devices. Facilities shall ensure that film masking devices that can limit the illuminated area to a region equal to or smaller than the exposed portion of the film are available to all interpreting physicians interpreting for the facility.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 370.90 Medical Records and Mammography Reports

a) Contents and terminology. Each facility shall prepare a written report of the results of each mammography examination performed under its certificate. The mammography report shall include the following information:
 1) The name of the patient and an additional patient identifier;
 2) Date of examination;
 3) The name of the interpreting physician who interpreted the mammogram;
 4) Overall final assessment of findings, classified in one of the following categories:

A) "Negative." Nothing to comment upon (if the interpreting physician is aware of clinical findings or symptoms, despite the negative assessment, these shall be explained);

B) "Benign." Also a negative assessment;

C) "Probably Benign." Finding(s) has a high probability of being benign;

D) "Suspicious." Finding(s) without all the characteristic morphology of breast cancer but indicating a definite probability of being malignant;

E) "Highly suggestive of malignancy." Finding(s) has a high probability of being malignant;

5) In cases where no final assessment category can be assigned due to incomplete work-up, "Incomplete: Need additional imaging evaluation" shall be assigned as an assessment and reasons why no assessment can be made shall be stated by the interpreting physician; and

6) Recommendations made to the health care provider about what additional actions, if any, should be taken. All clinical questions raised by the referring health care provider shall be addressed in the report to the extent possible, even if the assessment is negative or benign.

b) Communication of mammography results to the patient. Each facility shall send each patient a summary of the mammography report written in lay terms within 30 days after the mammographic examination ~~maintain a system to ensure that the results of each mammographic examination are communicated to the patient in a timely manner~~. If assessments are "Suspicious" or "Highly suggestive of malignancy" ~~and the patient has not named a health care provider~~, the facility shall make reasonable attempts to ensure that the results are communicated to the patient as soon as possible.

1) Patients ~~As soon as possible, but no later than 30 days after the date of the mammography examination, patients~~ who do not name a health care provider to receive the mammography report shall be sent the report described in subsection (a) of this Section within 30 days, in addition to the ~~a~~ written notification of results in lay terms.

2) Each facility that accepts patients who do not have a health ~~primary~~ care provider shall maintain a system for referring such patients to a health care provider when clinically indicated.

c) Communication of mammography results to health care providers. When the patient has a referring health care provider or the patient has named a health care provider, the facility shall:

1) Provide a written report of the mammography examination, including the items listed in subsection (a) of this Section, to that health care provider as soon as possible, but no later than 30 days after the date of the mammography examination; and

2) If the assessment is "Suspicious" or "Highly suggestive of malignancy," make reasonable attempts to communicate with the health care provider as soon as possible, or if the health care provider is unavailable, to a responsible designee of the health care provider.

d) Recordkeeping. Each facility that performs mammograms:

1) Shall (except as provided in subsection (c)(2) of this Section) maintain mammography films and reports in a permanent medical record of the patient for a period of not less than 5 years, or not less than 10 years if no additional mammograms of the patient are performed at the facility;

2) Shall upon request by, or on behalf of, the patient permanently or temporarily transfer the original mammograms and copies of the patient's reports to a medical institution, or to a physician or health care provider of the patient, or to the patient directly. Any fee charged to the patient for providing the services in this subsection (d) shall not exceed the documented costs associated with this service.

e) Mammographic image identification. Each mammographic image shall have the following information indicated on it in a permanent, legible, and unambiguous manner and placed so as not to obscure anatomic structures:

1) Name of patient and an additional patient identifier.

2) Date of examination.

3) View and laterality. This information shall be placed on the image in a position near the axilla. Standardized codes specified by the accreditation body shall be used to identify view and laterality.

4) Facility name and location. At a minimum, the location shall include the city, state and zip code of the facility.

5) Technologist identification.

6) Cassette/screen identification.

7) Mammography unit identification, if there is more than one unit in the facility.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 370.110 Equipment Quality Assurance Tests

a) Daily quality control tests. Film processors used to develop mammograms shall be adjusted and maintained to meet the technical development specifications for the mammography film in use. A processor performance test shall be performed on each day that examinations are performed before any clinical films are processed that day. The test shall include an assessment of base plus fog density, mid-density and density difference, using the mammography film used clinically at the facility.

1) The base plus fog density shall be within plus 0.03 of the established operating level.

2) The mid-density shall be within plus or minus 0.15 of the established operating level.
3) The density difference shall be within plus or minus 0.15 of the established operating level.

b) Weekly quality control tests. Facilities with screen-film systems shall perform a phantom image quality evaluation test at least weekly, using the Mammography Image Evaluation Protocol found in Appendix B of this Part.
1) The optical density of the film at the center of an image of the phantom shall be at least 1.20 when exposed under a typical clinical condition.
2) The optical density of the film at the center of the phantom image shall not change by more than plus or minus 0.20 from the established operating level.
3) The mammography system shall be capable of producing images of the mammography phantom in which the following objects are visualized:
A) The three largest masses with thicknesses of 2.0, 1.0 and 0.75 millimeter.
B) The three largest speck groups with diameters of 0.54, 0.40 and 0.32 millimeter.
C) The four largest fibers with thicknesses of 1.56, 1.12, 0.89 and 0.75 millimeter.
4) The density difference between the background of the phantom and an added test object, used to assess image contrast, shall be measured and shall not vary by more than plus or minus 0.05 from the established operating level.

c) Quarterly quality control tests. Facilities with screen-film systems shall perform the following quality control tests at least quarterly:
1) Fixer retention in film. The residual fixer shall be no more than 5 micrograms per square cm.
2) Repeat analysis. If the total repeat or reject rate changes from the previously determined rate by more than 2.0 percent of the total films included in the analysis, the reason(s) for the change shall be determined. Any corrective actions shall be recorded and the results of these corrective actions shall be assessed.

d) Semiannual quality control tests. Facilities with screen-film systems shall perform the following quality control tests at least semiannually:
1) Darkroom fog. The optical density attributable to darkroom fog shall not exceed 0.05 when a mammography film of the type used in the facility, which has a mid-density of no less than 1.20, is exposed to typical darkroom conditions for 2 minutes while such film is placed on the counter top emulsion side up. If the darkroom has a safelight used for mammography film, it shall be on during this test.
2) Screen-film contact. Testing for screen-film contact shall be

conducted using 40 mesh copper screen. All cassettes used in the facility for mammography shall be tested.
3) Compression device performance. The compression device performance shall:
A) Be capable of maintaining a compression force of at least 111 newtons (25 pounds) for at least 15 seconds;
B) Not be capable of exceeding a compression force of more than 209 newtons (47 pounds) when used in an automatic or power drive mode.

e) Annual quality control tests. Facilities with screen-film systems shall perform the following quality control tests at least annually:
1) Automatic exposure control performance.
A) The AEC shall be capable of maintaining film optical density within plus or minus 0.30 of the mean optical density when thickness of a homogeneous material is varied over a range of 2 to 6 cm and the kVp is varied appropriately for such thicknesses over the kVp range used clinically in the facility. If this requirement cannot be met, a technique chart shall be developed showing appropriate techniques (kVp and density control settings) for different breast thicknesses and compositions that shall be used so that optical densities within plus or minus 0.30 of the average under phototimed conditions can be produced.
B) After October 28, 2002, the AEC shall be capable of maintaining film optical density within plus or minus 0.15 of the mean optical density when thickness of a homogeneous material is varied over a range of 2 to 6 cm and the kVp is varied appropriately for such thicknesses over the kVp range used clinically in the facility.
C) The optical density of the film in the center of the phantom image shall not be less than 1.20.
2) Kilovoltage peak accuracy and reproducibility. The kVp shall be accurate within plus or minus 5 percent of the indicated or selected kVp at:
A) The lowest clinical kVp that can be measured by a kVp test device;
B) The most commonly used clinical kVp;
C) The highest available clinical kVp; and
D) At the most commonly used clinical settings of kVp, the coefficient of variation of reproducibility of the kVp shall be equal to or less than 0.02.
3) Focal spot dimensions. Until October 28, 2002, focal spot condition shall be evaluated by measuring focal spot dimensions or by determining system resolution. After October 28, 2002, facilities shall evaluate focal spot condition only by determining the system resolution. For focal spot dimensions, the measured values of the focal spot length (dimension parallel to the anode cathode axis) and width (dimension perpendicular to

the anode-cathode axis) shall be within the tolerance limits specified in this subsection (e)(3).

Focal Spot Tolerance Limit

Nomical Focal Spot Size (mm)	Maximum Measured Dimensions Width (mm)	Length (mm)
0.10	0.15	0.15
0.15	0.23	0.23
0.20	0.30	0.30
0.30	0.45	0.65
0.40	0.60	0.85
0.60	0.90	1.30

4) System Resolution. After October 28, 2002, facilities shall evaluate focal spot condition only by determining the system resolution as follows:
 A) Each x-ray system used for mammography, in combination with the mammography screen-film combination used in the facility, shall provide a minimum resolution of 11 cycles/millimeter (mm) (line-pairs/mm) when a high contrast resolution bar test pattern is oriented with the bars perpendicular to the anode-cathode axis, and a minimum resolution of 13 line-pairs/mm when the bars are parallel to that axis.
 B) The bar pattern shall be placed 4.5 cm above the breast support surface, centered with respect to the chest wall edge of the image receptor, and with the edge of the pattern within 1 cm of the chest wall edge of the image receptor.
 C) When more than one target material is provided, the measurement shall be made using the appropriate focal spot for each target material.
 D) When more than one source-image receptor distance is provided, the test shall be performed at SID most commonly used clinically.
 E) Test kVp shall be set at the value used clinically by the facility for a standard breast and shall be performed in the AEC mode, if available. If necessary, a suitable absorber may be placed in the beam to increase exposure times. The screen-film cassette combination used by the facility shall be used to test for this requirement and shall be placed in the normal location used for clinical procedures.
5) Beam quality and half-value layer (HVL). For mammography systems operating at x-ray tube potentials of less than 50 kVp, the HVL in millimeters of aluminum of the useful beam shall be equal to or greater than the product of the measured tube potential in kilivolts multiplied by 0.01. The half-value layer shall be measured with the compression device in the beam and shall be

measured at the same tube potential used in Appendix A of this Part, Mammography Dose Measurement Protocol, and Appendix B of this Part, Mammography Phantom Image Evaluation.
AGENCY NOTE: If the measured half-value layer is significantly greater than the specified minimum, image contrast will be reduced and overall image quality will be degraded. For screen-film mammography systems, it is recommended that the HVL not exceed the minimum acceptable HVL by more than 0.1 millimeter of aluminum, as specified in the American College of Radiology; Mammography Quality Control for Medical Physicists, Revised Edition, 1994.
6) Breast entrance air kerma and AEC reproducibility. The coefficient of variation for both air kerma and mAs shall not exceed 0.05.
7) Dosimetry. The average glandular dose delivered during a single craniocaudal view of a phantom simulating a standard breast shall not exceed 3.0 milligray (mGy) (0.3 rad) per exposure. The dose shall be determined with technique factors and conditions used clinically for a standard breast (see Appendix A of this Part).
8) X-ray field/light field/image receptor/compression paddle alignment.
 A) All systems shall have beam-limiting devices that allow the entire chest wall edge of the ~~useful~~ x-ray field ~~beam~~ to extend to the chest wall edge of the image receptor and provide means to assure that the x-ray field does not extend ~~or~~ beyond any edge ~~the edges~~ of the image receptor ~~but~~ by ~~no~~ more than 2 percent of the SID.
 B) If a light field that passes through the x-ray beam limitation device is provided, it shall be aligned with the x-ray field so that the total of any misalignment of the edges of the light field and the x-ray field along either the length or the width of the visually defined field at the plane of the breast support surface shall not exceed 2 percent of the SID.
 C) The chest wall edge of the compression paddle shall not extend beyond the chest wall edge of the image receptor by more than one percent of the SID when tested with the compression paddle placed above the breast support surface at a distance equivalent to standard breast thickness. The shadow of the vertical edge of the compression paddle shall not be visible on the image.
9) Uniformity of screen speed. Uniformity of screen speed of all the cassettes in the facility shall be tested and the difference between the maximum and minimum optical densities shall not exceed 0.30. Screen artifacts shall also be evaluated during this test.
10) System artifacts. System artifacts shall be evaluated with a high-grade, defect-free sheet of homogeneous material large

enough to cover the mammography cassette and shall be performed for all cassette sizes used in the facility using a grid appropriate for the cassette size being tested. System artifacts shall also be evaluated for all available focal spot sizes and target filter combinations used clinically.

11) Radiation output.

A) The system shall be capable of producing a minimum output of 4.5 mGy air kerma per second (513 mR per second) when operating at 28 kVp in the standard mammography (moly/moly) mode at any SID where the system is designed to operate and when measured by a detector with its center located 4.5 cm above the breast support surface with the compression paddle in place between the source and the detector. After October 28, 2002, the system, under the same measuring conditions, shall be capable of producing a minimum output of 7.0 mGy air kerma per second (800 mR per second) when operating at 28 kVp in the standard (moly/moly) mammography mode at any SID where the system is designed to operate.

B) The system shall be capable of maintaining the required minimum radiation output averaged over a 3.0 second period.

12) Decompression. If the system is equipped with a provision for automatic decompression after completion of an exposure or interruption of power to the system, the system shall be tested to confirm that it provides:

A) An override capability to allow maintenance of compression;

B) A continuous display of the override status; and

C) A manual emergency compression release that can be activated in the event of power or automatic release failure.

f) Quality control tests-other modalities. For systems with image receptor modalities other than screen-film, the quality assurance program shall be substantially the same as the quality assurance program recommended by the image receptor manufacturer, except that the maximum allowable dose shall not exceed the maximum allowable dose for screen-film systems in subsection (e)(7) of this Section.

g) Mobile Units. The facility shall verify that mammography units used to produce mammograms at more than one location meet the requirements in subsections (a) through (f) of this Section. In addition, at each examination location, before any examinations are conducted, mobile mammography systems shall be tested using the mammography phantom image evaluation, or shall meet the following requirements:

1) A medical physicist shall establish a protocol for measurement of the radiation output of the mammography system, including the radiation measuring device to be used, procedures for performing the measurement and the anticipated result of the measurement.

2) Measurements shall be performed using the technique factors that were used for the most recent phantom image evaluation. If a change is made in the technique factors used for the measurements required in this subsection (g)(2), the image quality shall be

tested using the mammography phantom image evaluation protocol found in Appendix B of this Part.

AGENCY NOTE: If the phantom image evaluation is performed using a phototimer, the medical physicist may specify appropriate technique factors that approximate those used by the phototimer for the measurements required in this Section.

3) After each relocation of a mobile mammography system, measurements of the radiation output of the machine shall be performed according to the protocol established in this Section.

4) If the radiation output measurement exceeds plus or minus 15 percent of the value established by the medical physicist, the system shall not be used to image human patients until the cause for the variation has been investigated and corrected.

5) Records of radiation output measurements for mobile mammography systems shall be maintained at the location of the mammography system for a period of not less than one inspection cycle.

AGENCY NOTE: The Department recommends that mobile mammography systems be tested for image quality after each relocation and prior to use on patients, with mammography phantom image evaluation protocol in Appendix B of this Part.

h) Use of test results.

1) After completion of the tests specified in subsections (a) through (g) of this Section, the facility shall compare the test results to the corresponding specified action limits, or for nonscreen-film modalities, to the manufacturer's recommended action limits, or for post-move, preexamination testing of mobile units, to the limits established in the test method used by the facility.

2) If the test results fall outside of the action limits, the source of the problem shall be identified and corrective actions shall be taken:

A) Before any further examinations are performed or any films are processed using the component of the mammography system that failed the test, if the failed test was that described in subsection (a), (b), (d)(1), (d)(2), (d)(3), (e)(7), (f) or (g) of this Section;

B) Within 30 days after the test date for all other tests described in this Section.

i) Surveys.

1) At least once a year, each facility shall undergo a survey by a medical physicist or by an individual under the direct supervision of a medical physicist. At a minimum, this survey shall include the performance of tests to ensure that the facility meets the quality assurance requirements of the annual tests described in subsections (e) and (f) of this Section and the weekly phantom image quality test described in subsection (b) of this Section.

2) Calibration of air kerma measuring instruments. Instruments used

by medical physicists in their annual survey to measure the air kerma or air kerma rate from a mammography unit shall be calibrated at least once every 2 years and each time the instrument is repaired. The instrument calibration shall be traceable to a national standard and calibrated with an accuracy of plus or minus 6 percent (95 percent confidence level) in the mammography energy range.

3) The results of all tests conducted by the facility in accordance with subsections (a) through (g) of this Section, as well as written documentation of any corrective actions taken and their results, shall be evaluated for adequacy by the medical physicist performing the survey.

4) The medical physicist shall prepare a survey report that includes a summary of this review and recommendations for necessary improvements.

5) The survey report shall be sent to the facility within 30 days after the date of the survey.

6) The survey report shall be dated and signed by the medical physicist performing or supervising the survey. If the survey was performed entirely or in part by another individual under the direct supervision of the medical physicist, that individual and the part of the survey that individual performed shall also be identified in the survey report.

j) Mammography equipment evaluations. Additional evaluations of mammography units or image processors shall be conducted whenever a new unit or processor is installed, a unit or processor is dissembled and reassembled at the same or a new location, or major components of a mammography unit or processor equipment are changed or repaired. These evaluations shall be used to determine whether the new or changed equipment meets the requirements of applicable standards in this Section and Section 370.80 of this Part. All problems shall be corrected before the new or changed equipment is put into service for examinations or film processing. The mammography equipment evaluation shall be performed by a medical physicist or by an individual under the direct supervision of a medical physicist.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 370.130 Mammography Medical Outcomes Audit

Each facility shall establish and maintain a mammography medical outcomes audit program to follow up positive mammographic assessments and to correlate pathology results with the interpreting physician's findings. This program shall be designed to ensure the reliability, clarity and accuracy of the interpretation of mammograms.

a) General requirements. Each facility shall establish a system to collect and review outcome data for all mammograms performed,

including followup on the disposition of all positive mammograms and correlation of pathology results with the interpreting physician's mammography report. Analysis of these outcome data shall be made individually and collectively for all interpreting physicians at the facility. In addition, any cases of breast cancer among patients imaged at the facility that subsequently become known to the facility shall prompt the facility to initiate followup on surgical and/or pathology results and review of the mammograms taken prior to the diagnosis of a malignancy.

b) Frequency of audit analysis. The facility's first audit analysis shall be initiated no later than 12 months after the date the facility becomes certified, or 12 months after April 28, 1999, whichever date is the latest. This audit analysis shall be completed within an additional 12 months to permit completion of diagnostic procedures and data collection. Subsequent audit analyses will be conducted at least once every 12 months.

c) Audit ~~Reviewing~~ interpreting physician. Each facility shall designate at least one interpreting physician to review the medical outcomes audit data at least once every 12 months. This individual shall record the dates of the audit period(s) and shall be responsible for analyzing results based on this audit. This individual shall also be responsible for documenting the results, notifying other interpreting physicians of their results and the facility aggregate results. If followup actions are taken, the audit ~~reviewing~~ interpreting physician shall also be responsible for documenting the nature of the followup.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 370.140 Additional Mammography Review and Patient Notification

a) If the Department believes that mammography quality at a facility has been compromised and may present a serious risk to human health, the facility shall provide clinical images and other relevant information, as specified by the Department, for review by the accreditation body. This additional mammography review will help the Department to determine whether the facility is in compliance with this Part ~~Section~~ and, if not, whether there is a need to notify affected patients, their physicians or the public that the reliability, clarity and accuracy of interpretation of mammograms has been compromised.

b) If the Department determines that the quality of mammography performed by a facility, whether or not certified under Section 370.50 of this Part, was so inconsistent with the quality standards established in this Part as to present a significant risk to individual or public health, the Department may require the facility to notify patients who received mammograms at the facility, and their referring physicians, of the deficiencies presenting the risk, the potential harm resulting, appropriate remedial measures and other relevant information as the

Department may require ~~any activity related to the provision of mammography at a facility may present a serious risk to human health such that patient notification is necessary, the facility shall notify patients or their designees, their physicians or the public of action that may be taken to minimize the effects of the risk. Such notification shall occur within a timeframe and in a manner specified by the Department.~~

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 370.145 Notification Requirements for Mobile Mammography Facilities Certified by Another Certifying Entity

Mobile mammography facilities that operate in Illinois and are certified under MQSA by the FDA, or another state authorized by FDA to certify mammography facilities under MQSA, shall:

a) Notify the Department by telephone, facsimile or letter of each date and location of operation of the mobile mammography facility in Illinois prior to conducting such operation.
AGENCY NOTE: Notifications submitted by the mobile mammography facility to the Department may contain notice of multiple dates and locations of operation by the mobile mammography facility.

b) At all times while operating in Illinois, have the following documentation available for review and inspection by the Department:
1) A copy of the mammography facility certificate issued by the FDA or another state, showing that the facility is currently certified.
2) A summary of the most recent physics survey of the mammography machine and documentation of any corrective actions recommended by the medical physicist who performed the physics survey.
3) Documentation that personnel meet the qualifications of Section 370.70 of this Part.

(Source: Added at 24 Ill. Reg. _____, effective _____)

Section 370.165 Failure of Mobile Mammography Facilities Certified by Another Certifying Entity to Meet Requirements

If the Department has reason to believe that the owner, operator or any employee of a mobile mammography facility certified by another certifying entity:

a) Has been guilty of misrepresentation in obtaining the certificate;

b) Has failed to comply with the standards of Sections 370.70, 370.80, 370.90, 370.100, 370.110, 370.120 and 370.130 of this Part;

c) Has failed to comply with reasonable requests of the Department for records, information, reports, or materials that the Department

believes are necessary to determine the continued eligibility of the facility for a certificate or continued compliance with the standards of Sections 370.70, 370.80, 370.90, 370.100, 370.110, 370.120, 370.130 and 370.140 of this Part; or

d) Has refused a reasonable request of a Department representative for permission to inspect the facility or the operations and pertinent records of the facility; the Department shall notify the certifying entity of the facts and circumstances and may take other actions as may be appropriate under the Radiation Protection Act of 1990 and regulations thereunder.

(Source: Added at 24 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Tiered Approach To Corrective Action Objectives

2) Code Citation: 35 Ill. Adm. Code 742

3)

Section Numbers:	Proposed Action:
742.200	Amend
742.1000	Amend
742.1010	Amend

4) Statutory Authority: Implementing Sections 22.4, 22.12, Title XVI, Title XVII, and Public Act 91-0909, and authorized by Sections 27, 57.14, and 58.5 of the Environmental Protection Act [415 ILCS 5/22.4, 22.12, 27, 57.14 and 58.5 and Title XVI and Title XVII].

5) A Complete Description of the Subjects and Issues Involved: This rulemaking is explained in more detail in the Board's opinion and order of July 27, 2000, R00-19(A), available from the address in item 11 below. The rulemaking was initiated by a proposal filed by the Illinois Environmental Protection Agency to amend 35 Ill. Adm. Code 742 of the Board's land regulations, which are commonly referred to as the TACO rules. Part 742 contains procedures for developing remediation objectives based on risks to human health and the environment posed by environmental conditions at sites undergoing remediation in the Site Remediation Program, the Leaking Underground Storage Tank Program, and pursuant to Resource Conservation and Recovery Act Part B permits and closures. The proposed amendments include a new legal instrument called the "Environmental Land Use Control" (ELUC), which will replace the existing deed restrictions used as institutional controls in TACO. The amendments proposed in this subdocket A which pertain to ELUCs are subject to a statutory adoption deadline established by Public Act 91-0909. They must be adopted as final rules no later than January 6, 2001.

6) Will this proposed amendment replace an emergency amendment currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: These proposed amendments do not create or enlarge a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3].

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal until October 12, or until any later date established by the

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

hearing officer consistent with the Board's adoption deadline. Comments should reference Docket R00-19(A) and be addressed to:

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph St.
Suite 11-500
Chicago, IL 60601

Address all questions pertaining to this rulemaking to Amy Jackson, at 217-524-8507 or jacksona@ipcb.state.il.us

The Board will also accept comment at hearings scheduled for the following dates:

August 25, 2000, at 10:00 a.m.
James R. Thompson Center
Room 9-040
100 West Randolph Street
Chicago, Illinois 60601

September 11 and 12, 2000, at 10:00 a.m.
Illinois Pollution Control Board
Hearing Room 403
600 South Second Street
Springfield, Illinois 62704

September 22, 2000, at 10:00 a.m. (if necessary)
James R. Thompson Center
Room 9-040
100 West Randolph Street
Chicago, Illinois 60601

Request copies of the Board's opinion and order in Docket R00-19(A) from Patricia Jones, at 312-814-3620, or download from the Board's Web site at www.ipcb.state.il.us.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: The proposed amendments will affect those small businesses that participate in the TACO program.

B) Reporting, bookkeeping or other procedures required for compliance: Compliance with these regulations includes maintenance of records and bookkeeping requirements necessary for review and approval of remediation efforts.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, and registered professional engineer.

13) Regulatory agenda on which this rulemaking was summarized: July 2000

The full text of the Proposed Amendments begins on the next page:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER f: RISK BASED CLEANUP OBJECTIVES

PART 742
TIERED APPROACH TO CORRECTIVE ACTION OBJECTIVES

SUBPART A: INTRODUCTION

Section
742.100 Intent and Purpose
742.105 Applicability
742.110 Overview of Tiered Approach
742.115 Key Elements
742.120 Site Characterization

SUBPART B: GENERAL

Section
742.200 Definitions
742.205 Severability
742.210 Incorporations by Reference
742.215 Determination of Soil Attenuation Capacity
742.220 Determination of Soil Saturation Limit
742.225 Demonstration of Compliance with Remediation Objectives
742.230 Agency Review and Approval

SUBPART C: EXPOSURE ROUTE EVALUATIONS

Section
742.300 Exclusion of Exposure Route
742.305 Contaminant Source and Free Product Determination
742.310 Inhalation Exposure Route
742.315 Soil Ingestion Exposure Route
742.320 Groundwater Ingestion Exposure Route

SUBPART D: DETERMINING AREA BACKGROUND

Section
742.400 Area Background
742.405 Determination of Area Background for Soil
742.410 Determination of Area Background for Groundwater
742.415 Use of Area Background Concentrations

SUBPART E: TIER 1 EVALULATION

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Section
742.500 Tier 1 Evaluation Overview
742.505 Tier 1 Soil and Groundwater Remediation Objectives
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742.605 Land Use
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AUTHORITY: Implementing Sections 22.4, 22.12, Title XVI, Title XVII and Public Act 91-909, and authorized by Sections 27, 57.14, and 58.5 of the Environmental Protection Act [415 ILCS 5/22.4, 22.12, 27, 57.14 and 58.5 and Title XVI and Title XVII].

SOURCE: Adopted in R97-12(A) at 21 Ill. Reg. 7942, effective July 1, 1997; amended in R97-12(B) at 21 Ill. Reg. 16391, effective December 8, 1997; amended in R97-12(C) at 22 Ill. Reg. 10847, effective June 8, 1998; amended at R00-19(A) at 24 Ill. Reg. _____, effective _____.

NOTE: In this Part, unless the context clearly indicates otherwise, superscript numbers or letters are denoted by parentheses; subscript are denoted by brackets; and SUM means the summation series or sigma function as used in mathematics.

SUBPART B: GENERAL

Section 742.200 Definitions

Except as stated in this Section, or unless a different meaning of a word or term is clear from the context, the definition of words or terms in this Part shall be the same as that applied to the same words or terms in the Act.

"Act" means the Illinois Environmental Protection Act [415 ILCS 5].

"ADL" means Acceptable Detection Limit, which is the detectable concentration of a substance that ~~which~~ is equal to the lowest appropriate Practical Quantitation Limit (PQL) as defined in this Section.

"Agency" means the Illinois Environmental Protection Agency.

"Agricultural Property" means any real property for which its present or post-remediation use is for growing agricultural crops for food or feed either as harvested crops, cover crops or as pasture. This definition includes, but is not limited to, properties used for confinement or grazing of livestock or poultry and for silviculture operations. Excluded from this definition are farm residences, farm outbuildings and agrichemical facilities.

"Area Background" means *concentrations of regulated substances that*

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are consistently present in the environment in the vicinity of a site that are the result of natural conditions or human activities, and not the result solely of releases at the site. [415 ILCS 5/58.2] ~~{Section 58.2 of the Act}~~

"ASTM" means the American Society for Testing and Materials.

"Board" means the Illinois Pollution Control Board.

"Cancer Risk" means a unitless probability of an individual developing cancer from a defined exposure rate and frequency.

"Cap" means a barrier designed to prevent the infiltration of precipitation or other surface water, or impede the ingestion or inhalation of contaminants.

"Carcinogen" means *a contaminant that is classified as a category A1 or A2 carcinogen by the American Conference of Governmental Industrial Hygienists; a category 1 or 2A/2B carcinogen by the World Health Organization's International Agency for Research on Cancer; a "human carcinogen" or "anticipated human carcinogen" by the United States Department of Health and Human Service National Toxicological Program; or a category A or B1/B2 carcinogen by the United States Environmental Protection Agency in the integrated risk information system or a final rule issued in a Federal Register notice by the USEPA.* [415 ILCS 5/58.2] ~~{Section 58.2 of the Act}~~

"Class I Groundwater" means groundwater that meets the Class I: Potable Resource Groundwater criteria set forth in 35 Ill. Adm. Code 620.

"Class II Groundwater" means groundwater that meets the Class II: General Resource Groundwater criteria set forth in 35 Ill. Adm. Code 620.

"Conservation Property" means any real property for which present or post-remediation use is primarily for wildlife habitat.

"Construction Worker" means a person engaged on a temporary basis to perform work involving invasive construction activities including, but not limited to, personnel performing demolition, earth-moving, building, and routine and emergency utility installation or repair activities.

"Contaminant of Concern" or "Regulated Substance of Concern" means *any contaminant that is expected to be present at the site based upon past and current land uses and associated releases that are known to the* person conducting a remediation *based upon reasonable inquiry.* [415

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ILCS 5/58.2] ~~{Section 58.2 of the Act}~~

"Engineered Barrier" means a barrier designed or verified using engineering practices that limits exposure to or controls migration of the contaminants of concern.

"Environmental Land Use Control" means an instrument placed in the chain of title to real property that limits or places requirements upon the use of the property for the purpose of protecting human health or the environment, is binding upon the property owner, heirs, successors, assigns, and lessees, and runs in perpetuity or until the Agency approves, in writing, removal of the limitation or requirement from the chain of title.

"Exposure Route" means the transport mechanism by which a contaminant of concern reaches a receptor.

"Free Product" means a contaminant that is present as a non-aqueous phase liquid for chemicals whose melting point is less than 30°C (e.g., liquid not dissolved in water).

"Groundwater" means underground water which occurs within the saturated zone and geologic materials where the fluid pressure in the pore space is equal to or greater than atmospheric pressure. [415 ILCS 5/3.64] ~~{Section 3.64 of the Act}~~

"Groundwater Quality Standards" means the standards for groundwater as set forth in 35 Ill. Adm. Code 620.

"Hazard Quotient" means the ratio of a single substance exposure level during a specified time period to a reference dose for that substance derived from a similar exposure period.

"Highway" means *any public way for vehicular travel which has been laid out in pursuance of any law of this State, or of the Territory of Illinois, or which has been established by dedication, or used by the public as a highway for 15 years, or which has been or may be laid out and connect a subdivision or platted land with a public highway and which has been dedicated for the use of the owners of the land included in the subdivision or platted land where there has been an acceptance and use under such dedication by such owners, and which has not been vacated in pursuance of law. The term "highway" includes rights of way, bridges, drainage structures, signs, guard rails, protective structures and all other structures and appurtenances necessary or convenient for vehicular traffic. A highway in a rural area may be called a "road", while a highway in a municipal area may be called a "street".* (Illinois Highway Code) [605 ILCS 5/2-202]~~}~~

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"Highway Authority" means *the Department* of Transportation *with respect to a State highway; the County Board with respect to a county highway or a county unit district road if a discretionary function is involved and the County Superintendent of Highways if a ministerial function is involved; the Highway Commissioner with respect to a township or district road not in a county unit road district; or the corporate authorities of a municipality with respect to a municipal street.* (Illinois Highway Code) [605 ILCS 5/2-213]~~}~~

"Human Exposure Pathway" means a physical condition which may allow for a risk to human health based on the presence of all of the following: contaminants of concern; an exposure route; and a receptor activity at the point of exposure that could result in contaminant of concern intake.

"Industrial/Commercial Property" means any real property that does not meet the definition of residential property, conservation property or agricultural property.

"Infiltration" means the amount of water entering into the ground as a result of precipitation.

"Institutional Control" means a legal mechanism for imposing a restriction on land use, as described in Subpart J.

"Man-Made Pathways" means *constructed* physical conditions *that may allow for the transport of regulated substances including, but not limited to, sewers, utility lines, utility vaults, building foundations, basements, crawl spaces, drainage ditches, or previously excavated and filled areas.* [415 ILCS 5/58.2] ~~{Section 58.2 of the Act}~~

"Natural Pathways" means *natural* physical conditions that may allow *for the transport of regulated substances including, but not limited to, soil, groundwater, sand seams and lenses, and gravel seams and lenses.* [415 ILCS 5/58.2] ~~{Section 58.2 of the Act}~~

~~"Negative Easement" means a right of the owner of the dominant or benefitted estate or property to restrict the property rights of the owner of the servient or burdened estate or property.~~

"Person" means an *individual, trust, firm, joint stock company, joint venture, consortium, commercial entity, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state, or any interstate body including the United States government and each department, agency, and instrumentality of the United States.* [415 ILCS 5/58.2] ~~{Section 58.2 of the Act}~~

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"Point of Human Exposure" means the point(s) at which human exposure to a contaminant of concern may reasonably be expected to occur. The point of human exposure is at the source, unless an institutional control limiting human exposure for the applicable exposure route has been or will be in place, in which case the point of human exposure will be the boundary of the institutional control. Point of human exposure may be at a different location than the point of compliance.

"PQL" means practical quantitation limit or estimated quantitation limit, which is the lowest concentration that can be reliably measured within specified limits of precision and accuracy for a specific laboratory analytical method during routine laboratory operating conditions in accordance with "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods", EPA Publication No. SW-846, incorporated by reference in Section 742.210. When applied to filtered water samples, PQL includes the method detection limit or estimated detection limit in accordance with the applicable method revision in: "Methods for the Determination of Organic Compounds in Drinking Water", Supplement II", EPA Publication No. EPA/600/4-88/039; "Methods for the Determination of Organic Compounds in Drinking Water, Supplement III", EPA Publication No. EPA/600/R-95/131, all of which are incorporated by reference in Section 742.210.

"RBCA" means Risk Based Corrective Action as defined in ASTM E-1739-95, as incorporated by reference in Section 742.210.

"RCRA" means the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6921).

"Reference Concentration (RfC)" means an estimate of a daily exposure, in units of milligrams of chemical per cubic meter of air (mg/m[3]), to the human population (including sensitive subgroups) that is likely to be without appreciable risk of deleterious effects during a portion of a lifetime (up to approximately seven years, subchronic) or for a lifetime (chronic).

"Reference Dose (RfD)" means an estimate of a daily exposure, in units of milligrams of chemical per kilogram of body weight per day (mg/kg/d), to the human population (including sensitive subgroups) that is likely to be without appreciable risk of deleterious effects during a portion of a lifetime (up to approximately seven years, subchronic) or for a lifetime (chronic).

"Regulated Substance" means *any hazardous substance as defined under Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (P.L. 96-510) and petroleum products including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable*

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for fuel (or mixtures of natural gas and such synthetic gas). [415 ILCS 5/58.2] ~~{Section 58.2 of the Act}~~

"Residential Property" *means any real property that is used for habitation by individuals,* or where children have the opportunity for exposure to contaminants through soil ingestion or inhalation at educational facilities, health care facilities, child care facilities or outdoor recreational areas. [415 ILCS 5/58.2]

~~"Restrictive Covenant or Deed Restriction" means a provision placed in a deed limiting the use of the property and prohibiting certain uses. (Black's Law Dictionary, 5th Edition)~~

"Right of Way" means *the land, or interest therein, acquired for or devoted to a highway.* (Illinois Highway Code) [605 ILCS 5/2-217]~~}~~

"Similar-Acting Chemicals" are chemical substances that have toxic or harmful effect on the same specific organ or organ system (see Appendix A.Tables E and F for a list of similar-acting chemicals with noncarcinogenic and carcinogenic effects).

"Site" means *any single location, place, tract of land or parcel of property, or portion thereof, including contiguous property separated by a public right-of-way.* [415 ILCS 5/58.2] ~~{Section 58.2 of the Act}~~

"Slurry Wall" means a man-made barrier made of geologic material which is constructed to prevent or impede the movement of contamination into a certain area.

"Soil Saturation Limit (C[sat])" means the contaminant concentration at which soil pore air and pore water are saturated with the chemical and the adsorptive limits of the soil particles have been reached.

"Solubility" means a chemical specific maximum amount of solute that can dissolve in a specific amount of solvent (groundwater) at a specific temperature.

"SPLP" means Synthetic Precipitation Leaching Procedure (Method 1312) as published in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", USEPA Publication No. SW-846, as incorporated by reference in Section 742.210.

"SSL" means Soil Screening Levels as defined in USEPA's Soil Screening Guidance: User's Guide and Technical Background Document, as incorporated by reference in Section 742.210.

"Stratigraphic Unit" means a site-specific geologic unit of native deposited material and/or bedrock of varying thickness (e.g., sand,

gravel, silt, clay, bedrock, etc.). A change in stratigraphic unit is recognized by a clearly distinct contrast in geologic material or a change in physical features within a zone of gradation. For the purposes of this Part, a change in stratigraphic unit is identified by one or a combination of differences in physical features such as texture, cementation, fabric, composition, density, and/or permeability of the native material and/or bedrock.

"TCLP" means Toxicity Characteristic Leaching Procedure (Method 1311) as published in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", USEPA Publication No. SW-846, as incorporated by reference in Section 742.210.

"Total Petroleum Hydrocarbon (TPH)" means the additive total of all petroleum hydrocarbons found in an analytical sample.

"Volatile Organic Compounds (VOCs)" means organic chemical analytes identified as volatiles as published in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", USEPA Publication No. SW-846 (incorporated by reference in Section 742.210), method numbers 8010, 8011, 8015, 8020, 8021, 8030, 8031, 8240, 8260, 8315, and 8316. For analytes not listed in any category in those methods, those analytes which have a boiling point less than 200°C and a vapor pressure greater than 0.1 Torr (mm Hg) at 20°C.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART J: INSTITUTIONAL CONTROLS

Section 742.1000 Institutional Controls

a) Institutional controls in accordance with this Subpart must be placed on the property when remediation objectives are based on any of the following assumptions:
 1) Industrial/Commercial property use;
 2) Target cancer risk greater than 1 in 1,000,000;
 3) Target hazard quotient greater than 1;
 4) Engineered barrier(s);
 5) The point of human exposure is located at a place other than at the source;
 6) Exclusion of exposure routes ~~under Subpart C~~; or
 7) Any combination of the above.

b) The Agency shall not approve any remediation objective under this Part that is based on the use of institutional controls unless the person has proposed institutional controls meeting the requirements of this Subpart and the requirements of the specific program under which the institutional control is proposed. A proposal for approval of

institutional controls shall provide identification of the selected institutional controls from among the types recognized in this Subpart.

c) The following instruments may be institutional controls subject to the requirements of this Subpart J and the requirements of the specific program under which the institutional control is proposed:
 1) No Further Remediation Letters;
 2) Environmental Land Use Controls ~~Restrictive covenants and deed restrictions~~;
 ~~3) Negative easements;~~
 3~~4~~) Ordinances adopted and administered by a unit of local government; and
 4~~5~~) Agreements between a property owner and a highway authority with respect to any contamination remaining under highways.

d) An institutional control must transfer ~~is transferred~~ with the property.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 742.1010 Environmental Land Use Controls ~~Restrictive Covenants, Deed Restrictions and Negative Easements~~

a) An Environmental Land Use Control ("ELUC") may be used as an institutional control under this Part if the requirements of this Section are met. An ELUC may be used to impose land use limitations or requirements related to environmental contamination. Activities or uses that may be limited or required include, but are not limited to, prohibition of use of groundwater for potable purposes, restriction to industrial/commercial uses, operation or maintenance of engineered barriers, or worker safety plans.

b) Recording requirements:
 1) An ELUC approved by the Agency pursuant to this Section must be recorded in the Office of the Recorder or Register of Titles for the county in which the property that is the subject of the ELUC is located. A copy of the ELUC demonstrating that it has been recorded must be submitted to the Agency before the Agency will issue a no further remediation determination.
 2) An ELUC approved under this Section will not become effective until officially recorded in the chain of title for the property that is the subject of the ELUC in accordance with subsection (b)(1) of this Section.
 3) A copy of the ELUC as recorded must be attached to the instrument memorializing the Agency's no further remediation determination. Recording of the no further remediation determination and confirmation of recording must be in accordance with the requirements of the program under which the determination was issued.

c) Duration

1) Except as provided in this subsection (c), an ELUC shall remain in effect in perpetuity.

2) *At no time shall any site for which an ELUC has been imposed as a result of remediation activities under* this Part *be used in a manner inconsistent with the land use limitation unless further investigation or remedial action has been conducted that documents the attainment of objectives appropriate for the new land use and a new* determination has been *obtained and recorded in accordance with* the program under which the ELUC was first imposed or the Site Remediation Program (35 Ill. Adm. Code 740). [415 ILCS 58.8(c)]

A) For a Leaking Underground Storage Tank site under 35 Ill. Adm. Code 731 or 732 or a Site Remediation Program site under 35 Ill. Adm. Code 740, an ELUC may be superseded only if the NFR Letter is modified under the Site Remediation Program to reflect the change;

B) For a RCRA site under 35 Ill. Adm. Code 721 - 730, an ELUC may be superseded only by an amended certification of closure or a permit modification.

3) In addition to any other remedies that may be available, a failure to comply with the limitation(s) or requirement(s) of an ELUC may result in voidance of an Agency no further remediation determination in accordance with the program under which the determination was made. The failure to comply with the limitation(s) or requirement(s) of an ELUC may also be grounds for an enforcement action pursuant to Title VIII of the Act.

d) An ELUC must contain the following elements:

1) Name of property owner(s) and declaration of property ownership;

2) Identification of the property to which the ELUC applies by common address, legal description, and Real Estate Tax Index/Parcel Index Number;

3) A reference to the Bureau of Land LPC number(s) or 10-digit identification number(s) under which the remediation was conducted;

4) A statement of the reason for the land use limitation or requirement relative to protection from soil contamination, groundwater contamination, or both;

5) A statement of the type of each land use limitation or requirement imposed by the ELUC and the language incorporating such land use limitation(s) or requirement(s);

6) A statement that the limitation(s) or requirement(s) apply to the current owner(s), occupants, and all heirs, successors, assigns, and lessees;

7) A statement that the limitation(s) or requirement(s) apply in perpetuity or until issuance by the Agency of a new no further remediation determination approving modification or removal of the limitation(s) or requirement(s);

8) Scaled site maps showing:

A) The legal boundary of the property to which the ELUC applies;

B) The horizontal and vertical extent of contaminants of concern above applicable Tier 1 residential remediation objectives for soil and groundwater to which the ELUC applies;

C) Any physical features to which an ELUC applies (e.g., engineered barriers, monitoring wells, caps); and

D) The nature, location of the source, and direction of movement of the contaminants of concern;

9) A statement that any information regarding the remediation performed on the property for which the ELUC is necessary may be obtained from the Agency through a request under the Freedom of Information Act (5 ILCS 140) and rules promulgated thereunder; and

10) The dated, notarized signature(s) of the property owner(s) or authorized agent.

~~a) A restrictive covenant, deed restriction or negative easement may be used as an institutional control under this Part if the requirements of this Section are met and the Agency has determined that no further remediation is required as to the property(ies) to which the institutional control is to apply.~~

~~b) A request for approval of a restrictive covenant, deed restriction or negative easement as an acceptable institutional control shall provide the following:~~

~~1) A copy of the restrictive covenant, deed restriction, or negative easement in the form it will be recorded with the Office of the Recorder or Registrar of Titles in the county where the site is located;~~

~~2) A scaled map showing the horizontal extent of contamination above the applicable remediation objectives;~~

~~3) Information showing the concentration of contaminants of concern in which the applicable remediation objectives are exceeded;~~

~~4) A scaled map showing the legal boundaries of all properties under which contamination is located that exceeds the applicable remediation objectives and which are subject to the restrictive covenant, deed restriction, or negative;~~

~~5) Information identifying the current owner(s) of each property identified in subsection (b)(4) of this Section; and~~

~~6) Authorization by the current owner(s), or person authorized by law to act on behalf of the owner, of each property identified in subsection (b)(5) of this Section to record the restrictive covenant or deed restriction.~~

~~c) Any restrictive covenant, deed restriction, or negative easement approved by the Agency pursuant to this Section shall be recorded in the Office of the Recorder or Registrar of Titles of the county in which the site is located together with the instrument memorializing~~

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~~the Agency's no further remediation determination pursuant to the specific program with 45 days after receipt of the Agency's no further remediation determination.~~

~~d) An institutional control approved under this Section shall not become effective until officially recorded in accordance with subsection (c) of this Section. The person receiving the approval shall obtain and submit to the Agency within 30 days after recording a copy of the institutional control demonstrating that it has been recorded.~~

~~e) At no time shall any site for which land use has been restricted under an institutional control approved under this Section be used in a manner inconsistent with such land use limitation unless further investigation or remedial action has been conducted that documents the attainment of remediation objectives appropriate for such land use and a new institutional control, if necessary, is approved and recorded in accordance with subsection (c) of this Section.~~

~~f) Violation of the terms of an institutional control approved under this Section shall be grounds for voidance of the institutional control and the instrument memorializing the Agency's no further remediation determination.~~

(Source: Amended at 24 Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Income Tax

2) Code Citation: 86 Ill. Adm. Code 100

3) Section Numbers: 100.2330 — Proposed Action: Amendment

4) Statutory Authority: 35 ILCS 5/207

5) A Complete Description of the Subjects and Issues Involved: Prior to the enactment of Public Act 91-541, Section 207 of the Illinois Income Tax Act permitted net losses to be carried over and deducted over the same period allowed for the carryover of net operating losses under Section 172(b) of the Internal Revenue Code. Prior to 1997, Section 172(b) generally permitted losses to be carried back to the 3 years preceding the loss year or forward to the 15 years following the loss year. For loss years beginning after August 6, 1997, Section 172(b) was amended to generally allow carrybacks of 2 years and carryforwards of 20 years. There are numerous special provisions in Section 172(b) before and after the amendment. Public Act 91-541 amended Section 207 for loss years ending on or after December 31, 1999, to provide that all losses may be carried back 2 years or carried forward 20 years. This rulemaking implements this amendment, provides guidance for the changes in federal laws, and provides guidance for small businesses which is lacking in the current rule.

6) Will this proposed rulemaking replace an emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? Yes

Section Numbers	Proposed Action	IL Register Citation
100.2165	New Section	4/28/00, 24 Ill. Reg. 6637
100.5130	Amendment	7/28/00, 24 Ill. Reg. 11188

10) Statement of Statewide Policy Objectives: The proposed amendments do not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:

Paul Caselton
Deputy General Counsel - Income Tax

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Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62708
Phone: (217) 782-7055

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: This rulemaking will clarify the principles for carrying over net losses incurred by small businesses operating as partnerships or Subchapter S corporations.

B) Reporting, bookkeeping or other procedures required for compliance: No new reporting or bookkeeping procedures are required.

C) Types of professional skills necessary for compliance: No additional professional skills are required.

13) Regulatory Agenda on which this amended rulemaking was summarized: July 2000

The full text of the Proposed Amendments begins on the next page:

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 100
INCOME TAX

SUBPART A: TAX IMPOSED

Section
100.2000 Introduction
100.2050 Net Income (IITA Section 202)

SUBPART B: CREDITS

Section
100.2100 Replacement Tax Investment Credit Prior to January 1, 1994 (IITA 201(e))
100.2101 Replacement Tax Investment Credit (IITA 201(e))
100.2110 Investment Credit; Enterprise Zone (IITA 201(f))
100.2120 Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone (IITA 201(g))
100.2130 Investment Credit; High Impact Business (IITA 201(h))
100.2140 Credit Against Income Tax for Replacement Tax (IITA 201(i))
100.2150 Training Expense Credit (IITA 201(j))
100.2160 Research and Development Credit (IITA 201(k))
100.2170 Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)
100.2180 Credit for Residential Real Property Taxes (IITA 208)
100.2195 Dependent Care Assistance Program Tax Credit (IITA 210)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS OCCURING PRIOR TO DECEMBER 31, 1986

Section
100.2200 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) - Scope
100.2210 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Definitions
100.2220 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Current Net Operating Losses; Offsets Between Members
100.2230 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Carrybacks and Carryforwards
100.2240 Net Operating Losses Occurring Prior to December 31, 1986, of

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SUBPART D: ILLINOIS NET LOSS DEDUCTIONS OCCURRING ON OR AFTER DECEMBER 31, 1986

Section
100.2300 Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986
100.2310 Computation of the Illinois Net Loss Deduction
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100.3310 Business Income of Persons Other than Residents (IITA Section 304) - In General
100.3320 Business Income of Persons Other Than Residents (IITA Section 304) - Apportionment
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100.3370 Sales Factor (IITA Section 304)
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100.5100 Composite Returns: Eligibility
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100.5120 Composite Returns: Individual Liability
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100.5200 Filing of Combined Returns
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100.5205 Election to File a Combined Return
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100.7030 Payments to Residents (IITA Section 701)
100.7040 Employer Registration (IITA Section 701)
100.7050 Computation of Amount Withheld (IITA Section 701)
100.7060 Additional Withholding (IITA Section 701)
100.7070 Voluntary Withholding (IITA Section 701)
100.7080 Correction of Underwithholding or Overwithholding (IITA Section 701)
100.7090 Reciprocal Agreement (IITA Section 701)

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100.7095 Cross References

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Section
100.7100 Withholding Exemption (IITA Section 702)
100.7110 Withholding Exemption Certificate (IITA Section 702)
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SUBPART S: INFORMATION STATEMENT

Section
100.7200 Reports for Employee (IITA Section 703)

SUBPART T: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

Section
100.7300 Returns of Income Withheld from Wages (IITA Section 704)
100.7310 Quarterly Returns Filed on an Annual Basis (IITA Section 704)
100.7320 Time for Filing Returns (IITA Section 704)
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100.7340 Correction of Underwithholding or Overwithholding (IITA Section 704)

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Section
100.9000 General Income Tax Procedures (IITA Section 901)
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Section
100.9100 Notice and Demand (IITA Section 902)

SUBPART W: ASSESSMENT

Section
100.9200 Assessment (IITA Section 903)
100.9210 Waiver of Restrictions on Assessments (IITA Section 907)

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Section
100.9300 Deficiencies and Overpayments (IITA Section 904)
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100.9320 Limitations on Notices of Deficiency (IITA Section 905)
100.9330 Further Notices of Deficiency Restricted (IITA Section 906)

SUBPART Y: CREDITS AND REFUNDS

Section
100.9400 Credits and Refunds (IITA Section 909)
100.9410 Limitations on Claims for Refund (IITA Section 911)
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SUBPART Z: INVESTIGATIONS AND HEARINGS

Section
100.9500 Access to Books and Records (IITA Section 913)
100.9505 Access to Books and Records -- 60-Day Letters (IITA Section 913) (Repealed)
100.9510 Taxpayer Representation and Practice Requirements
100.9520 Conduct of Investigations and Hearings

SUBPART AA: JUDICIAL REVIEW

Section
100.9600 Administrative Review Law (IITA Section 1201)

SUBPART BB: DEFINITIONS

Section
100.9700 Unitary Business Group Defined (IITA Section 1501)

SUBPART CC: LETTER RULING PROCEDURES

Section
100.9800 Letter Ruling Procedures

APPENDIX A Business Income Of Persons Other Than Residents
TABLE A Example of Unitary Business Apportionment
TABLE B Example of Unitary Business Apportionment for Groups Which Include Members Using Three-Factor and Single-Factor Formulas

AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49 p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg.

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6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. _____, effective _____.

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS OCCURRING ON OR AFTER DECEMBER 31, 1986

Section 100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring On or After December 31, 1986

a) IITA Section 207(a) provides for carryover deductions of any losses

that result *after applying all of the modifications provided for in Section 203(b)(2), (c)(2) and (d)(2) and the allocation and apportionment provisions of Article 3 of* the *Act.*

b) Years to which Illinois net losses may be carried.

1) Years to which Illinois net losses may be carried. Under IITA Section 207(a)(2), an Illinois net loss incurred in a tax year ending on or after December 31, 1999, may be carried back to the two preceding tax years or carried forward to the 20 succeeding tax years. For tax years ending prior to December 31, 1999, IITA Section 207(a)(1) provides that a carryback or carryover deduction shall be allowed in the manner allowed under Section 172 of the Internal Revenue Code. The federal rules concerning the years to which a loss may be carried are contained in Section 172(b) of the Code and in Treas. Reg. Sec. 1.172-4(a)(1). These rules, as now in effect or hereafter amended, shall be followed for Illinois income tax purposes and shall apply to corporations, partnerships, trusts and estates. In general, for Illinois net losses incurred in tax years beginning prior to August 6, 1997, the net loss shall be carried back to the three preceding taxable years and shall be carried over to the 15 succeeding taxable years. For Illinois net losses incurred in tax years beginning on or after August 6, 1997 and ending prior to December 31, 1999, the loss may generally be carried back to the two preceding tax years and carried forward to the 20 succeeding tax years. In taxable years ending prior to December 31, 1999, special provisions applied to regulated transportation companies, financial institutions, product liability losses and other entities or situations, and the provisions in Section 172(b) of the Internal Revenue Code and the related Treasury Regulations relating to the years to which a loss incurred in one of those years may be carried shall be followed.

2) Specific rules for losses incurred in taxable years ending prior to December 31, 1999. IITA Section 207(a)(1) provides that, *for any taxable year ending prior to December 31, 1999, such loss shall be allowed as a carryover or carryback deduction in the manner allowed under Section 172 of the Internal Revenue Code.* Pursuant to this provision:

A) For losses incurred in taxable years beginning prior to August 6, 1997, a loss generally would be carried back to each of the 3 taxable years preceding the taxable year in which the loss was incurred and to each of the 15 taxable years following the taxable year in which the loss was incurred. (From Section 172(b)(1)(A) of the Internal Revenue Code, as in effect prior to enactment of Public Law 105-34.)

B) For losses incurred in taxable years beginning after August 5, 1997, a loss generally would be carried back to each of the 2 taxable years preceding the taxable year in which the loss was incurred and to each of the 20 taxable years

following the taxable year in which the loss was incurred. (From Section 172(b)(1)(A) of the Internal Revenue Code, as in effect after enactment of Public Law 105-34.)

C) Special carryover periods allowed under Section 172(b) of the Internal Revenue Code for specific kinds of losses or taxpayers also apply. For example:

i) "Specified liability losses" may be carried back to each of the 10 taxable years preceding the taxable year in which the loss was incurred. (From Section 172(b)(1)(C) of the Internal Revenue Code.)

ii) For losses incurred in taxable years beginning after December 31, 1986, and ending before January 1, 1994, bad debt losses of commercial banks may be carried back to each of the 10 taxable years preceding the taxable year in which the loss was incurred and to each of the 5 taxable years following the taxable year in which the loss was incurred. (From Section 172(b)(1)(D) of the Internal Revenue Code.)

3) Specific rules for losses incurred in taxable years ending on or after December 31, 1999. IITA Section 207(a)(2) provides that, *for any taxable year ending on or after December 31, 1999, such loss shall be allowed as a carryback to each of the 2 taxable years preceding the taxable year of such loss and shall be a net operating carryover to each of the 20 taxable years following the taxable year of such loss.*

~~c)~~ b) Election to forgo carryback period~~:~~

1) IITA Section 207(a)(2)(A) allows the taxpayer to *elect to relinquish the entire carryback period with respect to such loss.* Such election shall be made on the taxpayer's return for the taxable year in which the loss is incurred and shall be made by the due date (including extensions of time) for filing of such return. If an election is made, the loss may be carried forward and deducted only in years subsequent to the taxable year in which the loss was incurred. *Such election, once made, shall be irrevocable.* ~~Any taxpayer entitled to a net loss carryback may elect to relinquish the entire carryback period with respect to a net loss for any taxable year ending on or after December 31, 1986. Such election shall be made on the taxpayer's return for the taxable year of the net loss and shall be made by the due date (including extensions of time) for filing the taxpayer's return for the taxable year of the net loss. Such election, once made for any taxable year, shall be irrevocable for that taxable year.~~

2) If such election is made on any return which is filed in accordance with Section 502(e) of the Illinois Income Tax Act, the election will be considered to be in effect for all eligible members of the return for the taxable year for which such election is made.

3) If the timely return for the taxable year reflects Illinois income and:

A) a finalized federal change eliminates Illinois income thereby creating an Illinois net loss for the year, the taxpayer may make the election to relinquish the entire carryback period for the Illinois net loss on an amended return or form prescribed by the Department within the 120 day time period prescribed by Section 506(b) of the Illinois Income Tax Act, or

B) an Illinois audit or other Illinois change eliminates Illinois income thereby creating an Illinois net loss for the year, the taxpayer may make the election to relinquish the entire carryback period for the Illinois net loss on forms prescribed by the Department at the time the loss is first reported to Illinois.

d)~~c~~ Portion of Illinois net loss which is a carryback or a carryover to the taxable year in issue. Pursuant to IITA Section 207(a)(2)(B), *the entire amount of such loss shall be carried to the earliest taxable year to which such loss may be carried. The amount of such loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of such loss over the sum of the deductions for carryback or carryover of such loss allowable for each of the prior taxable years to which such loss may be carried.* ~~An Illinois net loss shall first be carried to the earliest of the several taxable years for which such loss is allowable and shall then be carried to the next earliest of such several taxable years, etc. The portion of the loss which shall be carried to any of such several taxable years subsequent to the earliest taxable year is the excess of such net loss over the sum of the aggregate of the net incomes for all of such several taxable years (without regard to Illinois net loss deductions for such years) preceding such subsequent taxable year.~~ This is illustrated in the following Example.

EXAMPLE: A taxpayer that makes its return on the calendar year basis has an Illinois net loss for 1986. Under the provisions of Section 172(b) of the Internal Revenue Code as in effect in that year, the entire net loss for 1986 may be carried back to 1983. The amount of the carryback to 1984 is the excess of the 1986 loss over the net income for 1983. The amount of the carryback to 1985 is the excess of the 1986 loss over the aggregate of the net incomes for 1983 and 1984. The amount of the carryover to 1987 is the excess of the 1986 loss over the aggregate of the net incomes for 1983, 1984, and 1985, etc.

e)~~d~~ Carryover of pre-12/31/86 loss and post-12/30/86 loss. Net operating losses incurred prior to December 31, 1986, can be carried over into years in which Illinois net losses (incurred on or after December 31, 1986) are also carried. In such cases, the former losses will be treated as an adjustment to taxable income (i.e., before apportionment) while the latter will be a deduction in computing

Illinois net income (i.e., after apportionment). This is illustrated in the following Example.

EXAMPLE: Corporation A is a calendar year taxpayer. It has no partnership income and no nonbusiness income. In 1985, it reported a federal net operating loss of $1000, and on its Illinois return for 1986, it reported an Illinois net loss of $50, neither of which could be carried back to prior years due to losses existing in those years. In 1987, A had federal taxable income (before special deductions) of $200, and Illinois addition modifications of $100. Corporation A would compute its Illinois net income in 1987 as follows: The $1000 net operating loss from 1985 would offset the $200 of 1987 federal taxable income and would offset the $100 of 1987 Illinois addition modifications. In 1988, Corporation A would have remaining $700 of net operating loss carryover from 1985 and $50 of Illinois net loss carryover from 1986.

f) Special rules

1) IITA Section 207(b) provides that *any loss determined under subsection (a) of this Section must be carried back or carried forward in the same manner for purposes* of both the regular income tax imposed by IITA Section 201(a) and (b) and the personal property replacement income tax imposed under IITA Section 201(c) and (d).

2) For the carryforward of losses incurred prior to certain corporate or partnership reorganizations or acquisitions, see IITA Section 405.

3) IITA Section 207(a) provides that losses that may be carried over and deducted in other years are those losses that result after the modifications of IITA Section 203(b)(2), (c)(2) and (d)(2) are made, and after the allocation and apportionment rules of IITA Article 3 are applied. Accordingly:

A) No exemption allowed under IITA Section 204 shall be taken into account in computing a loss that may be carried over and deducted under IITA Section 207; and

B) No deduction for any loss carried over pursuant to IITA Section 207 may be taken into account in computing a loss that may be carried to and deducted in another taxable year under IITA Section 207.

4) Subchapter S corporations and partnerships

A) IITA Section 207(a) allows the carryover of losses that result after the modifications of IITA Section 203(b)(2) and (d)(2) are made. IITA Section 203(b) applies to Subchapter S corporations and IITA Section 203(d) applies to partnerships. Accordingly, IITA Section 207 allows Subchapter S corporations and partnerships carryover deductions for losses incurred.

B) Neither IITA Section 207 nor Section 172 of the Internal Revenue Code distinguishes between Subchapter S corporations and corporations governed by Subchapter C of the Internal

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Revenue Code. Section 1363(b)(2) of the Internal Revenue Code provides that no net operating deduction allowable under Section 172 of the Internal Revenue Code shall be allowed in the computation of taxable income of a Subchapter S corporation and Section 1371(b) of the Internal Revenue Code prohibits any carryforward or carryback between a taxable year in which a corporation is a Subchapter S corporation and a taxable year in which it is not. Neither Section 1363 nor Section 1271 of the Internal Revenue Code is applicable to the carryover and deduction of losses under IITA Section 207. Accordingly, subject to the other provisions of this Section, a loss incurred in a taxable year in which a corporation is a Subchapter S corporation shall be carried to and deducted in any taxable year in which it is not a Subchapter S corporation in the same manner as if the corporation were a Subchapter S corporation in that year, and a loss incurred in a taxable year in which a corporation is not a Subchapter S corporation shall likewise be carried to and deducted in any taxable year in which it is a Subchapter S corporation.

EXAMPLE: X Corporation is a Subchapter S corporation throughout the calendar year 1998. Effective for 1999, X Corporation's Subchapter S election is terminated. In 2000, X Corporation incurs an Illinois loss. Unless X Corporation elects to carry the loss forward only, the loss must first be carried back and deducted in 1998 and only the amount of loss in excess of 1998 taxable income may be carried to 1999 and subsequent years.

C) Losses carried over pursuant to IITA Section 207 are deductible only under that Section, and that Section allows the deduction only of losses that result when the taxpayer's own taxable income is less than zero. Accordingly, no loss carried over and deducted by a partnership or Subchapter S corporation in a taxable year may reduce the taxable income of any partner or shareholder of the taxpayer in that taxable year.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act

2) Code Citation: 86 Ill. Adm. Code 530

3)

Section Numbers:	Proposed Action:
530.101	Amendment
530.105	Amendment
530.110	Amendment
530.115	Amendment
530.116	New Section
530.117	New Section
530.120	Amendment
530.130	Amendment
530.140	Amendment
530.145	Amendment
530.150	Amendment
530.155	Amendment
530.160	Amendment
530.165	Amendment

4) Statutory Authority: 320 ILCS 25, as amended by Public Act 91-699 (effective January 1, 2001)

5) A Complete Description of the Subjects and Issues Involved: Throughout the rulemaking technical changes are made to standardize grammar, citation, terminology, spelling, punctuation and use of terminology.

Section 530.101: The heading is revised to more accurately reflect the actual content of the text of the rule. Substantive changes are made by expanding the list of diseases for which pharmaceutical assistance benefits will become available as a result of Public Act 91-699 beginning January 1, 2001.

Section 530.105: Substantive changes are made to explain terminology used in the Pharmaceutical Assistance Program by adding definitions for "additional resident", "applicant", "card", "claim", "claimant", "claim year", "coverage year", "covered prescription drug", "current income", "disabled person", "disease", "household", "household income", and "projected income". For example:

The statute uses different timeframes for various purposes in the program. To help claimants better understand timing issues, this rulemaking adds definitions for "claim year" and "coverage year". Senior citizens and disabled persons have an entire calendar year in which to make application with benefits being capped on a State fiscal year basis so coverage lasts for at least 12 months, although it does not necessarily coincide with either a calendar year or State

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fiscal year.

Section 530.110: Substantive changes are made by listing the new categories of therapeutic drugs for which expanded pharmaceutical coverage will become available as a result of Public Act 91-699 beginning January 1, 2001. For Example:

This rule extends coverage for prescriptions issued by physicians licensed to practice medicine in all its branches, physician assistants, and advance practice nurses, which is consistent with statutory changes in the medical field and existing departmental practices.

Newly covered prescription drugs must be purchased on or after January 1, 2001. The Department has not attempted to require that these drugs be both prescribed and purchased after January 1, 2001. This provision enables a beneficiary to obtain coverage even if the prescription was issued prior to January 1, 2001.

The Department has automated access to the formulary, which is a listing used by staff at authorized pharmacies and our claims processing vendor, to help minimize and avoid unnecessary delays in program service outside the Department. So as to avoid making it difficult for senior citizens and disabled persons to determine which medications constitute covered prescription drugs, the Department will continue the existing practice of mailing beneficiaries a preferred product list with their program cards.

Section 530.115: The heading is revised to more accurately reflect the actual content of the text. Technical changes are made to strike obsolete text and redundant text that is incorporated in new Sections for organizational purposes. Substantive changes are made by setting forth the new age and income eligibility requirements as a result of Public Act 91-699 beginning January 1, 2001. For example:

Pharmaceutical assistance coverage is now authorized for eligible persons who become 65 in the year in which a claim is submitted.

Although Public Act 91-699 increased income eligibility levels by creating a category for a "household containing 3 more persons" [sic], it did not change the definition of "household" or "household income". "Household" is defined as "a claimant or a claimant and his or her spouse living together in the same residence". "Household income" is limited to "the combined income of the members of a household for a claim year". This rulemaking adds a new definition for "additional resident" so that the new income eligibility level may be used, but the actual income of that third person will not be tracked for purposes of the program. Consequently, a husband and wife who apply as "married and living together" will use the $35,740 level for evaluating their income eligibility if a third person lives with them for whom they provide more than half of that person's total support for a claim year. A sibling or adult disabled child who resides with the claimant and his or her spouse will continue to apply as a separate household unless he or she is also being supported in the aforementioned manner. The provision regarding assignment of benefits is designed to mirror statutory language and will not result in any substantive change in program operations. Currently, if a person receives full Medicaid coverage, he or she would not have a financial need to apply for pharmaceutical coverage. On the other hand, if a person were on spend-down, it would be in that person's best interest to apply for such coverage, but, even if all qualifications are met, by statute he or she may only receive benefits under this program until such time as he or she has met the spend-down and full coverage comes into play. The statute has required this result since its inception.

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Section 530.116: A new Section is added to improve the organization of information by listing card fees and co-payments for pharmaceutical coverage as a result of Public Act 91-699 beginning January 1, 2001. At issue:

The provision changing the card fees and co-payments does not take effect until January 1, 2001. Any claim processed after this date will be entitled to the described reductions. In addition, a beneficiary whose card was issued before January 1, 2001 will be able to use the reduced co-payment levels for coverage after this date.

The benefits cap is raised from $800 to $2,000 on January 1, 2001. Even though the 2001 fiscal year began on July 1, 2000, by law the increase in the cap may not begin until January 1, 2001.

Section 530.117: A new Section is added to improve the organization of information by describing the procedures for filing and amending claims, requesting refunds, and appealing adverse determinations. At issue:

Public Act 91-699 requires qualifications to be based on "current income". "Current income" means the income in the claim year, which is the year immediately preceding the year in which the application is filed. In addition, the rule establishes a new procedure for amending claims using the "projected income" for the coverage year so either a claimant may qualify in the first instance, or a beneficiary may reduce his or her level for co-payments.

Section 530.120: Substantive changes are made authorizing extended validity for cards in the event it is necessary for the Department to check for erroneous or fraudulent claims.

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Section 530.125: Substantive changes are made explaining the pharmacy reimbursement determination procedures.

6) Will this proposed amendment replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

Jerry Lanter
Counsel for Property Tax
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-6996

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking will affect authorized pharmacies that contract with the Department to participate in the Pharmaceutical Assistance Program.

B) Reporting, bookkeeping or other procedures required for compliance: Authorized pharmacies will need to revise existing administrative procedures in accordance with this rulemaking and departmental directives regarding covered prescription drugs, fees, deductibles, co-payments, and ancillary charges from beneficiaries, and reimbursement for program participation.

C) Types of professional skills necessary for compliance: Staff at authorized pharmacies will need to be able to use a revised computer program to record pharmaceutical information relating to beneficiaries.

13) Regulatory Agenda on which this rulemaking was summarized: July 2000

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The full text of the Proposed Amendments begins on the next page:

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 530
SENIOR CITIZENS AND DISABLED PERSONS PROPERTY TAX RELIEF AND PHARMACEUTICAL ASSISTANCE ACT

Section
530.101 Purpose of the Pharmaceutical Assistance Program
530.105 Definitions
530.110 Covered Prescription Drugs
530.115 Eligibility Qualifications ~~for Beneficiaries~~
530.116 Fees and Co-payments
530.117 Claim Filing Procedures
530.120 Cards ~~Identification Card~~
530.125 Determination of Cost of Covered Prescription Drugs
530.130 Authorized Pharmacy Qualifications ~~Qualification of Pharmacies~~
530.135 Assignment and Coordination of Benefits
530.140 Payments to Authorized ~~Qualified~~ Pharmacies
530.145 Execution of Contracts
530.150 Limitation on Prescription Size
530.155 Inspection of Records
530.160 Establishment of Liens
530.165 Penalties

AUTHORITY: Implementing the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act [320 ILCS 25].

SOURCE: Adopted at 11 Ill. Reg. 20978, effective December 15, 1987; amended at 13 Ill. Reg. 1589, effective January 18, 1989; amended at 17 Ill. Reg. 11566, effective July 8, 1993; amended at 22 Ill. Reg. 19929, effective October 28, 1998; amended at 24 Ill. Reg. _____, effective _____.

Section 530.101 Purpose of the Pharmaceutical Assistance Program

The Senior Citizens and Disabled Persons Property Tax Relief and Pharamaceutical Assistance Act (~~the~~ Act) [320 ILCS 25) ~~(Ill. Rev. Stat. 1985, ch. 67 1/2, pars. 401 et seq.)~~ provides for the establishment of a program of pharmaceutical assistance to be administered by the Illinois Department of Revenue. The purpose for this program ~~the establishment of the Program~~ is to enable low-income senior citizens and disabled persons to afford medication for the treatment of heart disease and its related conditions, diabetes, ~~and~~ arthritis, and, beginning January 1, 2001, cancer, Alzheimer's disease, Parkinson's disease, glaucoma, and lung disease and smoking related illnesses.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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Section 530.105 Definitions

"Act" means the "Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act" [320 ILCS 25] ~~(Ill. Rev. Stat. 1985, ch. 67 1/2, pars. 401 et seq.)~~.

"Additional resident" means any person who is not filing a separate claim for the same claim year under this Act and who is living in the same residence with a claimant and for whom the household has provided more than half of that person's total support for a claim year.

"Applicant" means a claimant, any person in a household who has requested pharmaceutical assistance benefits on a claim filed by a claimant and, beginning January 1, 2001, any additional resident who would become a beneficiary if the claim is approved by the Department.

"Beneficiary" means a person whose claim for ~~beneficiary of~~ pharmaceutical assistance benefits ~~as provided for~~ under the "~~Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance~~ Act" has been approved by the Department.

"Card" means an identification card issued to a beneficiary by the Department prior to January 1, 2001, and a Pharmaceutical Assistance Card issued to a beneficiary by the Department on and after January 1, 2001.

"Claim" means an application or amended application filed on the appropriate forms approved by the Department for pharmaceutical assistance benefits under the Act.

"Claimant" means a person who has filed a claim for pharmaceutical assistance benefits *under the Act.* [320 ILCS 25/3.01]

"Claim year" means the calendar year prior to the year in which an applicant files a claim for pharmaceutical assistance benefits.

"Coverage year" means the period of time during which a beneficiary receives pharmaceutical assistance benefits for a claim year.

"Covered prescription drug" means any drug included in the categories listed in Section 530.110 for which the Department approves a claim for pharmaceutical assistance benefits.

"Current income" means household income for a claim year unless an applicant requests and is allowed by the Department to use projected income for a coverage year.

"Department" means the Illinois Department of Revenue. [320 ILCS

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25/3.02] ~~(Section 403.02 of the Act).~~

"Director" means the Director of the Illinois Department of Revenue. [320 ILCS 25/3.03] ~~(Section 403.03 of the Act).~~

"Disabled person" means a person who is unable to engage in any substantial gainful activity by reason of medically determinable physical or mental impairment that can be expected to result in death or has lasted or can be expected to last for a continious period of not less than 12 months. [320 ILCS 25/3.14]

"Disease" means a chronic and possibly recurrent illness of long duration, as distinguished from an acute illness that is of short duration with recovery due to limited medical treatment (such as in the case of colds, flu, pneumonia, bronchitis, or other similar illnesses).

"Household" means a claimant or a claimant and his or her *spouse living together in the same residence.* [320 ILCS 25/3.05]

"Household income" means the combined income of the members of a household for a claim year. [320 ILCS 25/3.06]

"Program" means the Pharmaceutical Assistance Program provided for under the "~~Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance~~ Act".

"Projected income" means household income expected to be received for a coverage year.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 530.110 Covered Prescription Drugs

a) Drugs, which fall within the following categories and are prescribed by a physician licensed to practice medicine in all of its branches pursuant to the Medical Practice Act of 1987 [225 ILCS 60], physician assistant licensed pursuant to the Physician Assistant Practice Act of 1987 [225 ILCS 95], or advanced practice nurse licensed pursuant to Title 15 of the Nursing and Advanced Practice Nursing Act [225 ILCS 65/Title 15] ~~(Ill. Rev. Stat. 1985, ch. 111, par. 4401 et seq.)~~ for treatment of heart disease and its related conditions, qualify for inclusion in the Pharmaceutical Assistance Program as covered prescription drugs:
 1) Antihypertensive
 2) Antianginal
 3) Antiarrhythmic

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 4) Antihyperlipidemic
 5) Beta Blocker
 6) Digitalis Glycosides
 7) Hypertension/Shock
 8) Diuretics
 9) Potassium
 10) Anticoagulants

b) Drugs purchased on or after January 1, 1987, which fall within the following categories and are prescribed by a physician licensed to practice medicine in all of its branches pursuant to the Medical Practice Act of 1987, physician assistant licensed pursuant to the Physician Assistant Practice Act of 1987, or advanced practice nurse licensed pursuant to Title 15 of the Nursing and Advanced Practice Nursing Act ~~(Ill. Rev. Stat. 1985, ch. 111, par. 4401 et seq.)~~ for the treatment of diabetes, qualify for inclusion in the Pharmaceutical Assistance Program as covered prescription drugs:
 1) Insulin
 2) Insulin, Syringes & Needles
 3) Oral Hypoglycemics
 4) Pituitary Hormones
 5) Glucose Elevators

c) Drugs ~~Prescription drugs~~ purchased on or after January 1, 1987, which fall within the following categories and are prescribed by a physician licensed to practice medicine in all of its branches pursuant to the Medical Practice Act of 1987, physician assistant licensed pursuant to the Physician Assistance Practice Act of 1987, or advanced practice nurse licensed pursuant to Title 15 of the Nursing and Advanced Practice Nursing Act for the treatment of arthritis, qualify for inclusion in the Pharmaceutical Assistance Program as covered prescription drugs:
 1) Hormones/Adrenal Cortical Steroids
 2) Analgesics/Antirheumatic
 3) Analgesics ~~Analgesic~~/Nonopiate Agonists
 4) Antiprotozoals ~~Antiprotozals~~
 5) Penicillamine
 6) Analgesics/Narcotic Antagonists: Gout
 7) Oncolytic/Antineoplastic: Antimetabolites
 8) Immunosuppressives ~~Immunosupressives~~

d) Drugs purchased on or after January 1, 2001, which fall within the following categories and are prescribed by a physician licensed to practice medicine in all of its branches pursuant to the Medical Practice Act of 1987, physician assistant licensed pursuant to the Physician Assistant Practice Act of 1987, or advanced practice nurse licensed pursuant to Title 15 of the Nursing and Advanced Practice Nursing Act for the treatment of cancer, qualify for inclusion in the Pharmaceutical Assistance Program as covered prescription drugs:
 1) Alkylating Agents
 2) Antimetabolites

3) Antimitotic Agents
4) Epipodophyllotoxins
5) Antibiotics
6) Hormones
7) Enzymes
8) Platinum Coordination Complex
9) Anthracenedione
10) Substituted Ureas
11) Methylhydrazine Derivatives
12) Cytoprotective Agents
13) DNA Topoisomerase Inhibitors
14) Biological Response Modifiers
15) Retinoids
16) Monoclonal Antibodies
17) Miscellaneous Antineoplastics
18) Narcotic Agonist Analgesics
19) Narcotic Analgesic Combinations
20) Antiemetic Agents
21) Anticonvulsants

e) Drugs purchased on or after January 1, 2001, which fall within the following categories and are prescribed by a physician licensed to practice medicine in all of its branches pursuant to the Medical Practice Act of 1987, physician assistant licensed pursuant to the Physician Assistant Practice Act of 1987, or advanced practice nurse licensed pursuant to Title 15 of the Nursing and Advanced Practice Nursing Act for the treatment of Alzheimer's disease, qualify for inclusion in the Pharmaceutical Assistance Program as covered prescription drugs:
1) Cholinesterase Inhibitors
2) Antipsychotics

f) Drugs purchased on or after January 1, 2001, which fall within the following categories and are prescribed by a physician licensed to practice medicine in all of its branches pursuant to the Medical Practice Act of 1987, physician assistant licensed pursuant to the Physician Assistant Practice Act of 1987, or advanced practice nurse licensed pursuant to Title 15 of the Nursing and Advanced Practice Nursing Act for the treatment of Parkinson's disease, qualify for inclusion in the Pharmaceutical Assistance Program as covered prescription drugs:
1) Anticholinergics
2) Amantadine
3) Bromocriptine Mesylate
4) Carbidopa
5) Levodopa
6) Levodopa and Carbidopa
7) Pergolide Mesylate
8) Selegiline Hydrochloride
9) Entacapone

10) Tolcapone
11) Dopaminergics
12) Clonazepam

g) Drugs purchased on or after January 1, 2001, which fall within the following categories and are prescribed by a physician licensed to practice medicine in all of its branches pursuant to the Medical Practice Act of 1987, physician assistant licensed pursuant to the Physician Assistant Practice Act of 1987, or advanced practice nurse licensed pursuant to Title 15 of the Nursing and Advanced Practice Nursing Act for the treatment of glaucoma, qualify for inclusion in the Pharmaceutical Assistance Program as covered prescription drugs:
1) Alpha-2 Adrenergic Agonists
2) Sympathomimetics
3) Alppha-Adrenergic Blocking Agents
4) Beta-Adrenergic Blocking Agents
5) Miotics, Direct Acting
6) Miotics, Cholinesterase Inhibitors
7) Carbonic Anhydrase Inhibitors
8) Prostaglandin Agonists
9) Miscellaneous Combinations

h) Drugs purchased on or after January 1, 2001, which fall within the following categories and are prescribed by a physician licensed to practice medicine in all of its branches pursuant to the Medical Practice Act of 1987, physician assistant licensed pursuant to the Physician Assistant Practice Act of 1987, or advanced practice nurse licensed pursuant to Title 15 of the Nursing and Advanced Practice Nursing Act for the treatment of lung disease and smoking related illnesses, qualify for inclusion in the Pharmaceutical Assistance Program as covered prescription drugs:
1) Sympathomimetic Bronchodilators
2) Diluents
3) Xanthine Derivatives
4) Anticholinergic Bronchodilators
5) Leukotriene Receptor Antagonists
6) Leukotriene Formation Inhibitors
7) Corticosteroid Respiratory Inhalants
8) Mucolytics
9) Mast Cell Stabilizers
10) Respiratory Enzymes
11) Digestive Enzymes
12) Antiasthmatic Combinations
13) Antituberculosal Agents
14) Zyban
15) Nicotine

i) ~~d~~ The specific covered prescription drugs which fall within each category will ~~shall~~ be listed in a handbook to be prepared and disseminated on the internet Web site of ~~distributed--by~~ the Department. Updates ~~to the handbook~~ regarding changes in the ~~covered~~

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~~drug~~ categories and specific covered prescription drugs will ~~shall~~ be made as necessary.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 530.115 Eligibility Qualifications ~~for Beneficiaries~~

a) 1999 Claim Year and Earlier Claim Years

1) In order to be eligible to participate ~~qualify for participation~~ in this program ~~the Program~~ for the 1999 claim year and earlier claim years, each claimant ~~beneficiary~~ must:

A) be 65 years of age or older or disabled prior to January 1 of the year in which a ~~an~~ claim ~~application~~ is filed, ~~,~~ or ~~Or~~ be the *surviving spouse of ~~such~~ a claimant, who at the time of death received or was entitled to receive* pharmaceutical assistance *benefits ~~pursuant to this Section~~, which surviving spouse will become 65 years of age within the 24 months immediately following the death of a ~~such~~ claimant and which surviving spouse,* but for his or her age, *is otherwise qualified to receive* pharmaceutical assistance benefits ~~a grant pursuant to this Section. (Section 4 of the Act) In addition to the statutory means of proof, proof of disability includes receipt of Railroad, Civil Service, and Veterans total disability benefits~~;

B) *be domiciled in Illinois ~~this State~~ at the time he or she files a ~~the~~ claim;*

C) *have a maximum household income of less than $14,000~~.00~~ for claim years before the 1998 claim year and less than $16,000 for the 1998 and 1999 claim years*;

D) *obtain a ~~an identification~~ card from the Department; and*

E) *at the time a ~~the identification~~ card is obtained, execute an assignment to the Department of all benefits which might be claimed under any private insurance plan ~~plan(s)~~ in purchasing covered prescription drugs.* [320 ILCS 25/4(f)]

~~2) The fee to be charged by the Department for the identification card shall be equal to $40 for persons with maximum household income below the official poverty line as defined by the United States Department of Health and Human Services and $80 for all other persons. (Section 4(f) of the Act)~~

~~3) Each beneficiary who pays $40.00 for an identification card shall pay the first $15.00 of prescription costs each month. Each beneficiary who pays $80.00 for an identification card shall pay the first $25.00 of prescription costs each month. (Section 4(f) of the Act)~~

~~4) After a beneficiary receives $800.00 in benefits during a State fiscal year, that beneficiary shall also be charged 20% of the cost of each prescription for which payments are made during the remainder of the fiscal year. (Section 4(f) of the Act)~~

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2b) *If two or more persons living in the same household are eligible to participate in this program ~~the Program~~, all the requirements of subsection (a)(1) above must be met by each person ~~beneficiary~~.* [320 ILCS 25/4(f)

3c) Persons who participate in some other program of public assistance are ineligible to ~~which provides benefits similar to those provided for under this Part may only~~ participate in this program ~~Program~~ to the extent that the other program provides pharmaceutical assistance benefits ~~benefits provided~~ for a covered prescription drug under this program ~~the other program fail short of those provided for under this Part.~~ [320 ILCS 25/4(f)]

b) *2000 Claim Year and Later Claim Years*

1) *In order to be eligible to participate in this program for the 2000 claim year and later claim years, each applicant must:*

A) *file a timely claim; and*

B) *meet one of the following requirements:*

i) *be 65 years of age or older during the calendar year in which the claim is filed; or*

ii) *be the surviving spouse of an applicant, who at the time of death received or was entitled to receive pharmaceutical assistance benefits, which surviving spouse will become 65 years of age within the 24 months immediately following the death of an applicant and which surviving spouse, but for his or her age, is otherwise qualified to receive pharmaceutical assistance; or*

iii) *be disabled prior to January 1 of the year in which the claim is filed; and*

C) *be domiciled in Illinois at the time he or she files a claim; and*

D) *have a current income of less than $21,218 for a household consisting of one person, $28,480 for a household consisting of either two persons or one person and one additional resident, or $35,740 for a household consisting of either two persons and one or more additional resident or one person and two or more additional residents; and*

E) Cauthorize the release of medical, pharmaceutical, and Social Security records for audit or verification purposes; and

F) *obtain a card from the Department; and*

G) *execute an assignment to the Department of all benefits which might be claimed under any private plan of assistance, including any insurance plan* or public assistance program, or from a third party in purchasing covered prescription drugs. [320 ILCS 25/4(f)]

2) *If more than one person in a household or any additional resident*

is eligible to participate in this program, all the requirements of subsection (b)(1) above must be met by each applicant. [320 ILCS 25/4(f)]

3) *Persons who participate in some other program of public assistance are ineligible to participate in this program to the extent that the other program provides pharmaceutical assistance benefits for a covered prescription drug under this program.* [320 ILCS 35/4(f)]

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 530.116 Fees and Co-payments

a) Fees

1) *An applicant must pay a fee to the Department for a card as follows:*

A) *Prior to January 1, 2001, an applicant must pay $40 for a card if his or her household income for a claim year is below the poverty line.*

B) *Prior to January 1, 2001, an applicant must pay $80 for a card if his or her household income for a claim year is at or above the poverty line.*

C) *Beginning January 1, 2001, an applicant must pay $5 for a card if his or her household income for a claim year is below the poverty line.*

D) *Beginning January 1, 2001, an applicant must pay $25 for a card if his or her household income for a claim year* is at or above the poverty line. [320 ILCS 25/4(f)]

2) The term "poverty line" means the official poverty line as defined by the Federal Office of Management and Budget at 42 USC 9902(2).

b) Covered Prescription Drug Co-payments

1) *A beneficiary must make co-payments to an authorized pharmacy for covered prescription drugs as follows:*

A) *A beneficiary who pays $40 for a card must pay a deductible equal to the first $15 of total prescription costs each month until the accumulated total paid by this program reaches $800 for a State fiscal year prior to the 2001 State fiscal year. For the portion of the 2001 State fiscal year from July 1, 2000 through December 31, 2000, after the accumulated total of $800 for the State fiscal year has been reached, such a beneficiary must continue to pay the first $15 of total prescription costs each month plus a co-payment equal to 20% of the cost of each prescription for which payments are made by this program. For the portion of the 2001 State fiscal year from January 1, 2001 through June 30, 2001, and for all subsequent State fiscal years, after the accumulated total of $2,000 for the State fiscal year has been reached, such a beneficiary must pay a co-payment equal to 20% of the cost of each prescription for which payments are made by this program for the remainder of the State fiscal year.*

B) *A beneficiary who pays $80 for a card must pay a deductible equal to the first $25 of total prescription costs each month until the accumulated total paid by this program reaches $800 for a State fiscal year prior to the 2001 State fiscal year. For the portion of the 2001 State fiscal year from July 1, 2000 through December 31, 2000, after the accumulated total of $800 for the State fiscal year has been reached, such a beneficiary must continue to pay the first $25 of total prescription costs each month plus a co-payment equal to 20% of the cost of each prescription for which payments are made by this program. For the portion of the 2001 State fiscal year from January 1, 2001 through June 30, 2001, and for all subsequent State fiscal years, after the accumulated total of $2,000 for the State fiscal year has been reached, such a beneficiary must pay $3 for each prescription plus a co-payment equal to 20% of the cost of each prescription for which payments are made by this program for the remainder of the State fiscal year.*

C) *Beginning with the portion of the 2001 State fiscal year from January 1, 2001 through June 30, 2001, and for all subsequent State fiscal years, a beneficiary who pays $5 for a card will pay no additional prescription costs until the accumulated total paid by this program reaches $2,000 for the State fiscal year, at which point such a beneficiary must pay a co-payment equal to 20% of the cost of each prescription paid by this program for the remainder of the State fiscal year.*

D) *Beginning with the portion of the 2001 State fiscal year from January 1, 2001 through June 30, 2001, and for all subsequent State fiscal years, a beneficiary who pays $25 for a card must pay $3 for each prescription until the accumulated total paid by this program reaches $2,000 for the State fiscal year, at which point such a beneficiary must continue to pay $3 for each prescription plus a co-payment equal to 20% of the cost of each prescription paid by this program for the remainder of the State fiscal year.* [320 ILCS 25/4(f)]

2) A beneficiary also must pay to an authorized pharmacy an ancillary charge for any covered prescription drug that is a brand name product if the pharmacy is reimbursed at the generic price as provided in Section 530.125(d)(2).

(Source: Added at 24 Ill. Reg. _____, effective

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_____)

Section 530.117 Claim Filing Procedures

a) Pharmaceutical Assistance Claims

1) *A claim for pharmaceutical assistance benefits under the Act must be filed on the appropriate forms approved by the Department in a timely manner.* [320 ILCS 25/5(a)]

2) *Only one applicant may file a claim for each household for a claim year. If more than one person in a household and, for the 2000 claim year and later claim years, any additional resident, is eligible to file a claim under the Act, they must agree as to which of them will file the claim for the claim year as the claimant and the other person or additional resident must sign the claim as an applicant.* [320 ILCS 25/5(c)]

3) An applicant must submit proof of his or her eligibility qualifications as set forth in Section 530.115.

A) Examples of proof of date of birth include:

i) a baptismal record; or

ii) a birth certificate; or

iii) a driver's license; or

iv) an identification card from the Secretary of State's office; or

v) an insurance policy; or

vi) naturalization papers; or

vii) a passport.

B) Examples of proof of disability include:

i) *proof that an applicant is eligible to receive disability benefits under the federal Social Security Act of 1935* (42 USC 423); or

ii) *issuance of an Illinois Disabled Person Identification Card stating that an applicant is under a Class 2 disability, as defined in Section 4A of the Illinois Identification Card Act* [15 ILCS 335/4A]; or

iii) *status of applicant as a disabled person determined by a physician designated by the Department using the same standards as used by the Social Security Administration with the costs of any required examination paid by the applicant* (42 USC 423); or

iv) receipt by applicant of Railroad (45 USC 231), Civil Service, or Veterans' total disability benefits (38 USC 101). [320 ILCS 25/3.14]

4) For the 2000 claim year and thereafter, an applicant may request that projected income for the coverage year be used as current income in determining eligibility at the time a claim is filed if projected income for the coverage year will be lower than current income for the claim year. The claim must be filed in a timely manner and the request must include an itemized listing of current income for the claim year and projected income for the coverage year, together with documentation for the lost sources of income used in calculating projected income. The Department will allow such a request and use projected income as current income in processing the claim if its use will enable an applicant to qualify for this program. (See 320 ILCS 25/5(e).)

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b) Amended Pharmaceutical Assistance Claims

1) For the 2000 claim year and thereafter, an applicant whose claim has been denied for exceeding maximum household income eligibility qualifications may file an amended claim requesting use of projected income for the coverage year as current income for the claim year in re-determining eligibility if projected income for the coverage year will be lower than current income for the claim year. The amended claim must be filed in a timely manner and the request must include an itemized listing of current income for the claim year and projected income for the coverage year, together with documentation for the lost sources of income used in calculating projected income. The Department will allow such a request and use projected income as current income in processing the amended claim if its use will enable an applicant to qualify for this program. (See 320 ILCS 25/5(e).)

2) For the 2000 claim year and thereafter, a beneficiary whose claim has been approved may file an amended claim requesting use of projected income for the coverage year as current income for the claim year in re-determining the co-payment for covered prescription drugs if projected income for the coverage year will be lower than current income for the claim year. The amended claim must be filed in a timely manner and the request must include an itemized listing of current income for the claim year and projected income for the coverage year, together with documentation for the lost sources of income used in calculating projected income. The Department will allow such a request and use projected income as current income in processing the amended claim if its use will enable a beneficiary to qualify for a lower co-payment for covered prescription drugs. (See 320 ILCS 25/5(e).)

3) Amended claims for pharmaceutical assistance benefits must be filed on the appropriate forms approved by the Department prior to the expiration of the coverage year for the claim year at issue.

4) For the 2000 claim year and later claim years, in the event that a beneficiary has been issued a card for the coverage year and an amended claim using projected income as current income is processed and approved subsequently by the Department, the amount of the co-payment will be reduced accordingly at the beginning of the next qualifying month of coverage. There will be no change in the fee that has already been paid for a card.

c) Refunds

A beneficiary may submit a written request prior to the expiration of the coverage year for a refund of the card fee if pharmaceutical assistance benefits have not been used.

d) Appeal Rights

1) *Any applicant or beneficiary aggrieved by action of the Department under the Act, whether in the denial of a claim or amended claim,* or in the determination of the fee for a card or the amount of a deductible, co-payment, or ancillary charge, *may request in writing that the Department reconsider its action, setting out the facts on which the request is based. The Department will consider the request and either affirm or modify its action.* [320 ILCS 25/7(c)]

2) *The decision of the Department to affirm its action, or the failure of the Department to act on a request for reconsideration within 60 days, is a final administrative decision that is subject to judicial review under the* Administrative Review Law [735 ILCS 5/Art. III]. [320 ILCS 25/7(d)]

(Source: Added at 24 Ill. Reg. _____, effective _____)

Section 530.120 Cards ~~Identification Card~~

a) A ~~An identification~~ card containing, at a minimum, the following information, will ~~shall~~ be issued to each beneficiary ~~participant in the Program~~:

1) name ~~Name~~ of beneficiary ~~Participant~~;

2) identification number ~~numbers~~;

3) effective date of coverage; and

4) expiration date of coverage.

b) *A ~~The identification card issued by the Department~~ will ~~shall~~ not be valid for more than one year* unless, beginning January 1, 2001, it is extended for up to a six-month period of time so that the Department will have an opportunity to check for erroneous or fradulent claims. [320 ILCS 25/5(a)]

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 530.125 Determination of Cost of Covered Prescription Drugs

a) ~~The Department shall determine the reasonable cost of covered prescription drugs for which payment is made to an authorized pharmacy.~~ The Department will reimburse ~~shall pay~~ an authorized pharmacy the reasonable cost of pharmaceutical services that such pharmacy provided to a beneficiary ~~program participant~~ pursuant to a physician's oral or written prescription authorization.

b) Determination of Reasonable Cost. The Department will determine the

reasonable cost of covered prescription drugs for which reimbursement will be made to an authorized pharmacy ~~The reasonable cost (or payment) shall be~~ in an amount equal to:

1) the lesser of:

A) *the Average Wholesale Price (AWP) for the covered prescription drug minus 10%* ~~for pharmaceutical product~~, based on the National Drug Code (NDC) number for the original package size from which such drug ~~pharmaceutical product~~ was dispensed (AWP is determined by the most recent monthly publication Price Alert, First DataBank, 1111 Bayhill Dr., San Bruno CA 94066, the electronic successor to the Blue Book); or

B) *the Maximum Acquisition Cost (MAC) for the covered prescription drug* based on ~~such pharmaceutical product as set forth in the Pharmaceutical Assistance Program's~~ MAC list for this program (MAC is determined by the Department's claims processing vendor); plus

2) *the professional dispensing fee*; less

3) any applicable co-payments ~~copayments~~, deductibles, and ancillary charges. [320 ILCS 25/3.16]

c) Professional Dispensing Fee. On an annual basis, the Department shall conduct a survey to determine the professional dispensing fee to be charged by authorized pharmacies.

1) The survey will consist of a broad rate analysis of other similar private and governmental pharmaceutical assistance ~~drug dispensing~~ programs, including organizations within and outside Illinois. The survey will be conducted as follows:

A) The Department will contact those other states that have pharmaceutical assistance programs similar to this ~~the Illinois~~ program and obtain information concerning current dispensing fees as well as information on any plans to modify the fees within the next 12 months.

B) The Department will contact private sector businesses with similar programs and obtain fee information from those businesses.

C) The Department will contact the Illinois Department of Public Aid and the public aid departments of the surrounding states to obtain fee rates under the various Medicaid programs.

2) The results of the broad rate analysis will then be evaluated by the Department to determine an appropriate professional dispensing fee for which an authorized pharmacy will be reimbursed ~~that will be used by the Department~~. The professional dispensing fee so determined will be used in subsection (b) of this Section to determine reasonable cost.

3) The professional dispensing fee shall be adjusted as of July 1 of each year in accordance with the results of the survey prescribed in this subsection (c).

d) Reimbursement~~.~~
 1) Reimbursement to authorized pharmacies will be allowed for covered ~~all~~ prescription drugs legally marketed in accordance with the rules and regulations of the ~~medications approved by~~ the Food and Drug Administration or the federal Department of Health and Human Services~~, U.S. Department of Agriculture, for the treatment of cardiovascular disease, diabetes and arthritis~~.
 2) Reimbursement will be at the generic price as provided in subsection (b)(1)~~,~~ unless ~~a brand name product is dispensed for which there is no generic equivalent.~~ the following conditions exist:
 A) an oral prescription is filled, refilled, or renewed for a covered prescription drug that is a brand name product for which no generic equivalent is available; or
 B) a written prescription is filled, refilled, or renewed for a covered prescription drug that is a brand name product for which no generic equivalent is available; or
 C) beginning January 1, 2001, an oral prescription is filled, refilled, or renewed for a covered prescription durg that is a brand name product containing one or more ingredients defined as a narrow therapeutic index drug at 21 CFR 320.33 and the prescriber stipulates "brand medically necessary" and that substitution is not permitted; or
 D) beginning January 1, 2001, a written prescription is filled, refilled, or renewed for a covered prescription drug that is a brand name product containing one or more ingredients defined as a narrow therapeutic index drug at 21 CFR 320.33 and indicates on its face "brand medically necessary" and that substitution is not permitted.

e) Pharmacy's Cost of On-line Communications. Each authorized pharmacy participating in this program ~~the Pharmaceutical Assistance Program~~ shall pay all costs, charges and fees incurred by the pharmacy ~~Pharmacy~~ that are related to on-line communication and the processing of claims or other information sent to or from the Department or the Department's claims processing vendor ~~designee~~.

f) The reasonable cost of covered prescription drugs available to beneficiaries in this program ~~the Program~~ shall not exceed the cost of such drugs when dispensed to the general public.

g) In the event that generic equivalents for covered prescription drugs are available at lower cost, the Department shall establish the maximum acquisition cost ~~cost(s)~~ for such covered prescription drugs at the lower generic cost as provided in subsection (b)(1).

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 530.130 Authorized Pharmacy Qualifications ~~Qualification of Pharmacies~~

Only pharmacies that ~~who~~ are registered in Illinois ~~this State~~ under the Pharmacy Practice Act of 1987 [225 ILCS 85] ~~(Ill. Rev. Stat. 1985, ch. 111, pars. 4001 et seq.)~~ are authorized pharmacies eligible to *participate in this program ~~provide covered prescription drugs to Beneficiaries under the Program~~.* [320 ILCS 25/6(d)]

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 530.135 Assignment and Coordination of Benefits

a) *Where a beneficiary ~~Beneficiary in the Program~~ is entitled to benefits from any private plan of assistance, including any insurance plan, public assistance program, or third party ~~which covers drugs provided~~ for covered prescription drugs under this program ~~the Program~~, he or she must execute an assignment of ~~sign a statement assigning~~ those benefits to the Department.* [320 ILCS 25/6(d)(4)]

b) The Department shall charge or collect payments from any private plan ~~plans~~ of assistance, including any insurance plan, public assistance program, or third pary for any claims assigned ~~claim that is properly chargeable under the assignment of benefits executed~~ by a beneficiary ~~Beneficiary as a requirement of eligibility in the Program~~. (See 320 ILCS 25/4(f) and 6(d).)

Section 530.140 Payments to Authorized ~~Qualified~~ Pharmacies

Payments to authorized pharmacies under the Act ~~the Part and its related rules and regulations~~ shall be made in accordance with the State Prompt Payment Act [30 ILCS 540]. [320 ILCS 25/6(d)(7)] ~~*"An Act to require prompt payments by the State of Illinois for goods or services" (Ill. Rev. Stat. 1985, ch. 127, pars. 132.401 et seq.).*~~

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 530.145 Execution of Contracts

a) The Director or his or her designee has the authority to enter into written contracts with any State agency, instrumentally or political subdivision, or a fiscal intermediary for the purpose of making payments to authorized pharmacies who participate in this program ~~the Program~~ and coordinating this program ~~the Program~~ with other public assistance programs. (See 320 ILCS 25/6(d).)

b) *Contracts entered into by or on behalf of the Department and authorized pharmacies shall stipulate the terms and conditions for ~~of such authorized pharmacies'~~ participation in this program ~~the plan~~ and the right of the Department to terminate ~~such~~ participation ~~by an authorized pharmacy~~ for breach of contract or violation of* federal or

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State law. [320 ILCS 25/6(d)(1)] ~~the act or related rules and regulations of the Department. (Section 406(d)(1) of the Act).~~

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 530.150 Limitation on Prescription Size

An ~~No~~ authorized pharmacy~~, in filling or renewing a prescription under the plan,~~ may not ~~shall~~ provide a beneficiary with more than a 34-day supply of any covered prescription drug in filling, refilling, or renewing a prescription, ~~except as otherwise specified, in the handbook of covered drugs,~~ for medical or utilization control reasons in the handbook prepared and disseminated on the internet Web site of the Department. [350 ILCS 25/6 (d)(2)] Such an exception is specified in the handbook for covered prescription drugs ~~are those~~ classified as maintenance drugs which~~, because of the larger daily dosage required,~~ are less expensive to dispense in greater quantities due to larger daily dose requirement. ~~(Section 406(d)(2) of the Act).~~

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 530.155 Inspection of Records

The Department, or its designee, shall have the right to inspect the books and records of all authorized ~~participating~~ pharmacies in order to ensure compliance with the requirements of the Act ~~and this part~~ and to prevent fraud. [320 ILCS 25/6(d)(5)] ~~(Section 406(d)(5) of the Act).~~

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 530.160 Establishment of Liens

The Director is entitled to establish a lien on any and all causes of action which accrue to a beneficiary as a result of injuries for which covered prescription drugs are directly or indirectly prescribed and for which payment was made under this ~~the~~ program. [320 ILCS 25/6(d)(3)] ~~(Section 406(d)(3) of the Act).~~

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 530.165 Penalties

a) Any person who:

~~1) Files a fraudulent claim for a grant under the Act; or~~

1)~~2)~~ for compensation prepares a claim for this program ~~a grant~~ and knowingly enters false information on the claim ~~form~~ for an applicant or a beneficiary; or

2)~~3)~~ fraudulently files multiple claims ~~claim forms~~; or

3)~~4)~~ on behalf of an authorized pharmacy, files a fraudulent claim for payment; or

4)~~5)~~ fraudulently states that a nondisabled person is disabled; or

5)~~6)~~ fraudulently procures a ~~an identification~~ card; or

6)~~7)~~ fraudulently uses a ~~an identification~~ card to obtain covered prescription drugs,

is guilty of a Class 4 felony for the first offense and a Class 3 felony for each subsequent offense. [320 ILCS 25/9]

b) The Department shall suspend the use of a ~~the identification~~ card if ~~of~~ any beneficiary or other person is suspected of fraudulent procurement or fraudulent use of a ~~an identification~~ card ~~and, upon conviction, revoke the identification card~~. [320 ILCS 25/9] Evidence of fraudulent procurement or fraudulent use ~~shall~~ includes ~~include~~, but is not limited to, false information in a claim ~~the application~~, use of a card by someone other than the person to whom it was issued, use of a card after its expiration date, and use of a card at too frequent intervals for the same medication.

c) The Department will revoke a card of any beneficiary convicted of fradulent procurement or fraudulent use of a card. Persons convicted of fraud under the Act ~~the Part~~ shall be permanently barred from participating in this ~~the~~ program. [320 ILCS 25/9] ~~(Section 9 of the Act).~~

d) The Department will recover from any beneficiary or authorized pharmacy any amount paid under this ~~the~~ program on account of an erroneous or fraudulent claim, together with 6 percent interest per year. [320 ILCS 25/9] ~~(Section 9 of the Act).~~

e) A prosecution for violation of the provisions of the Act may be undertaken at any time within three years after ~~of~~ the commission of that violation. [320 ILCS 25/9] ~~(Section 9 of the Act).~~

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

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1) Heading of the Part: Disclosure of Confidential Supervisory Information

2) Code Citation: 38 Ill. Adm. Code 325

3)

Section Numbers:	Adopted Action:
325.10	New Section
325.20	New Section
325.30	New Section
325.40	New Section
325.50	New Section
325.60	New Section
325.70	New Section
325.80	New Section

4) Statutory Authority: Implementing and authorized by Section 48.3 of the Illinois Banking Act [205 ILCS 5/48.3].

5) Effective Date of Rule: July 28, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rule contain incorporations by reference? No

8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: April 21, 2000, 24 Ill. Reg. 6466

10) Has JCAR issued a Statement of Objection to this rule? No

11) Differences between proposal and final version: At the request of JCAR, some changes were made to Section 325.80 to clarify the specific amount of fees that can be assessed for certain activities.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rule replace an emergency rule currently in effect? No

14) Are there any rules pending on this Part? No

15) Summary and Purpose of Rule: Public Act 91-201 added the definition of the term "confidential supervisory information" to include information contained in any report of an examination, visitation or investigation prepared by the Commissioner and any summary containing examination information. The Act also sets forth procedures for sharing such

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information. The purpose of the rule is to clarify those procedures and what types of information may be disclosed with proper consent.

16) Information and questions regarding this adopted rule shall be directed to:

Christopher J. Siebel
Office of Banks and Real Estate
500 E. Monroe Street
Springfield IL 62701
Telephone: 217/782-6167
Telefax: 217/524-5941
E-Mail: csiebel@bre.state.il.us

The full text of the rule begins on the next page:

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TITLE 38: FINANCIAL INSTITUTIONS
CHAPTER II: OFFICE OF BANKS AND REAL ESTATE

PART 325
DISCLOSURE OF CONFIDENTIAL SUPERVISORY INFORMATION

Section
325.10 Definitions
325.20 Purpose and Scope
325.30 Requests for Confidential Supervisory Information
325.40 Where to Submit a Request
325.50 Consideration of Requests
325.60 Disclosure of Confidential Supervisory Information
325.70 Retrieval and Destruction of Previously Disclosed Confidential Supervisory Information Used in Litigation
325.80 Fees for Services

AUTHORITY: Implementing and authorized by Section 48.3 of the Illinois Banking Act [205 ILCS 5/48.3].

SOURCE: Adopted at 24 Ill. Reg. 11815, effective JUL 28 2000.

Section 325.10 Definitions

For purposes of this Part:

"Act" means the Illinois Banking Act [205 ILCS 5].

"Commissioner" means the Commissioner of Banks and Real Estate, or a person authorized by the Commissioner to act in the Commissioner's stead.

"Compelling need" means that no other non-confidential source is available to obtain information of equal relevance.

"Complete request" means a request that provides all of the information required in Section 325.30 of this Part.

"Confidential supervisory information" shall have the same meaning ascribed to that term in Section 48.3 of the Act [205 ILCS 5/48.3].

"Person" shall have the same meaning ascribed to that term in Section 2 of the Act [205 ILCS 5/2].

"Relevant" means the requested confidential supervisory information could substantially contribute to the resolution of the issues identified in the pleadings contained within the request.

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"Requester" means any person who makes a request for the discovery or disclosure of confidential supervisory information, whether by subpoena, order, or other judicial or administrative process.

Section 325.20 Purpose and Scope

a) Purpose. The purpose of this Part is to establish the procedures and standards by which the Commissioner shall determine whether to disclose confidential supervisory information in response to a request for discovery or disclosure of such information.

b) Scope. This Part applies to requests, whether by subpoena, order, or other judicial or administrative process, for discovery or disclosure of confidential supervisory information prepared or obtained by the Commissioner under the Act, the Electronic Fund Transfer Act, the Corporate Fiduciary Act, the Illinois Bank Holding Company Act of 1957, the Foreign Banking Office Act and any report of examination, visitation or investigation prepared by the state regulatory authority of another state that examines a branch of an Illinois bank in that state. This Part does not apply to:
 1) a request made pursuant to the Freedom of Information Act [5 ILCS 140] (FOIA), provided that, if the information requested constitutes confidential supervisory information, it shall nonetheless be exempt from disclosure pursuant to Section 7(1)(x) of FOIA;
 2) a request made by a party to whom the Commissioner may furnish confidential supervisory information as permitted in Section 48.3 of the Act [205 ILCS 5/48.3]; or
 3) a request made by a party to whom a bank or other financial institution may furnish confidential supervisory information as permitted in Section 48.3(b) of the Act [205 ILCS 5/48.3].

Section 325.30 Requests for Confidential Supervisory Information

Pursuant to Section 48.3 of the Act [205 ILCS 5/48.3], a request for confidential supervisory information arising from an adversarial matter, whether by subpoena, order, or other judicial or administrative process, shall be made to the Commissioner. If the request is for a record, the requester must adequately describe the records sought by type and date. Such request shall be accompanied by:

a) a copy of the formal complaint or pleading setting forth the assertions of the adversarial matter;
b) the caption and docket number assigned to the adversarial proceeding;
c) the name, address, and telephone number of designated legal counsel to each party named in the adversarial proceeding;
d) a statement detailing the relevance of the requested confidential supervisory information;
e) a statement detailing a compelling need for the requested confidential supervisory information;

f) a statement describing any prior judicial decisions or pending motions in the case that may bear on the asserted relevance of the requested information; and

g) a statement detailing why the requester believes that the compelling need outweighs the public interest considerations in maintaining confidentiality and why the compelling need outweighs the burden on the Office of Banks and Real Estate to produce the requested confidential supervisory information.

Section 325.40 Where to Submit a Request

A person requesting discovery or disclosure of confidential supervisory information under this Part shall mail, or hand deliver, the request to:

Office of Banks and Real Estate
Bureau of Banks and Trust Companies
500 East Monroe Street
Springfield, Illinois 62701-1509
Attention: Legal Section

Section 325.50 Consideration of Requests

a) Standards for the Disclosure of Confidential Supervisory Information. When making a determination with respect to the disclosure of confidential supervisory information, the Commissioner shall consider the following standards:
 1) the confidential supervisory information identified in the request is relevant;
 2) a compelling need exists;
 3) if the requested confidential supervisory information is to be used in connection with an adversarial matter, the lawsuit or administrative action has been filed; and
 4) the production and disclosure of the confidential supervisory information is not unduly burdensome to the Office of Banks and Real Estate.

 In determining whether to disclose the requested confidential supervisory information, the Commissioner may inquire into the circumstances of any case underlying the request and rely on sources of information other than the requester, including other parties.

b) Time Required by the Commissioner to Respond. The Commissioner, within 15 days, shall determine whether to disclose the requested confidential supervisory information. The 15-day time period shall not commence until the Commissioner receives a complete request. If the request is not complete, the Commissioner shall notify the requester of the required information that has not previously been provided.

c) Notice to Other Parties. Following receipt of a complete request for confidential supervisory information, the Commissioner may notify the state bank, the electronic fund transfer network or switch, the

corporate fiduciary, the Illinois bank holding company or the foreign banking office that is the subject of the requested information, unless the Commissioner determines that to do so would advantage or prejudice any of the parties in the matter at issue.

Section 325.60 Disclosure of Confidential Supervisory Information

a) Conditions and Limitations. The Commissioner may impose any conditions and limitations on the disclosure of confidential supervisory information that are necessary to protect the confidentiality of such information. Except as authorized by the Commissioner, no person obtaining access to confidential supervisory information under this Part may make a copy of the confidential supervisory information.

b) Restrictions on Dissemination of Confidential Supervisory Information. The Commissioner may condition a decision to disclose confidential supervisory information on entry of a protective order by the court or administrative tribunal presiding in the particular case or on a written agreement of confidentiality. In a case in which a protective order or agreement has already been entered between parties other than the Commissioner, the Commissioner may nevertheless condition approval for release of confidential supervisory information upon the inclusion of additional or amended provisions in the protective order. The Commissioner may authorize a party who obtained the records for use in one case to provide them to another party in another case, subject to any conditions that the Commissioner may impose on either or both parties.

c) Notification of Parties and Procedures for Sharing and Using Confidential Supervisory Information in Litigation. The requester shall promptly notify other parties to a case of the release of confidential supervisory information obtained pursuant to this Part and, upon entry of a protective order, shall provide copies of confidential supervisory information to the other parties.

Section 325.70 Retrieval and Destruction of Previously Disclosed Confidential Supervisory Information Used in Litigation

At the conclusion of an action:

a) the requester shall retrieve the disclosed confidential supervisory information from the judicial or administrative file as soon as the presiding judicial or administrative authority no longer requires the information;

b) the requester, and each party who may have subsequently received confidential supervisory information pursuant to a protective order, shall destroy the disclosed confidential supervisory information covered by the protective order; and

c) each party shall certify to the Commissioner that the disclosed confidential supervisory information covered by the protective order

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has been destroyed.

Section 325.80 Fees for Services

The Commissioner may charge the following fees for any record search or copying performed by the Commissioner:

a) Reproduction costs incurred in making photocopies of documents shall be reimbursed at $.25 per exposure.

b) All other costs, including but not limited to telephone costs, telegrams, and shipping costs, incurred in searching for and transporting data pursuant to a request for confidential supervisory information shall be reimbursed at actual costs.

The Commissioner may require a requester to remit payment prior to providing the requested confidential supervisory information.

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Children's Health Insurance Program

2) Code Citation: 89 Ill. Adm. Code 125

3)

Section Numbers:	Adopted Action:
125.100	Amendment
125.110	Amendment
125.200	Amendment
125.205	Amendment
125.220	Amendment
125.230	Amendment
125.240	Amendment
125.245	Amendment
125.250	Amendment
125.260	Amendment
125.300	Amendment
125.310	Amendment
125.320	Amendment
125.330	Amendment
125.340	Amendment
125.400	Amendment
125.420	Amendment
125.440	Amendment
125.445	New Section

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Effective Date of Amendments: July 28, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: March 31, 2000 (24 Ill. Reg. 5607)

10) Has JCAR issued a Statement of Objections to these amendments? No

11) Differences Between Proposal and Final Version:

Throughout these rules, "caretaker relative", "family" and "rebate", and the plural forms of those terms, have been changed to "Caretaker Relative", "Family" and "Rebate".

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Section 125.110

A new definition has been added after "Rev", as follows: " "Significant Health Insurance" means coverage that includes physician services and inpatient hospital services that would qualify for coverage under KidCare Rebate."

Section 125.205

Subsection (c)(3) has been revised to read, "A child enrolled in KidCare Rebate no longer being covered under a private or employer-based health insurance plan, except that a child may change enrollment from KidCare Rebate to the KidCare Health Plan pursuant to Section 125.260(c) when such a loss of insurance was involuntary."

In subsection (c)(6), "that was not timely reported to the Department" has been deleted and replaced by ", except that a child may change enrollment from KidCare Health Plan to KidCare Rebate pursuant to Section 125.260(d)". Also, "significant health insurance" has been changed to "Significant Health Insurance".

In subsection (c)(9), "after notice from the Department" has been deleted and replaced by "according to terms established by the Department, which may include recoupment out of future Rebate payments or a payment plan".

In subsection (d)(2), "these rules" has been changed to "this Part".

The new language in subsection (d)(3) has been revised to read, "Any overpayment of Rebates paid on behalf of the child must be repaid to the Department. A Rebate overpayment shall be considered repaid if the Department can recoup the overpayment out of future Rebate payments;".

Subsection (g) has been deleted and newly labeled subsection "h)" has been relabeled as subsection "g)".

Section 125.210

This new Section has been deleted from the proposed rulemaking.

Section 125.240

A new subsection (g) has been added as follows:

g) Children determined to be eligible for the KidCare Health Plan may obtain coverage for a period prior to the date of application for the Program. This coverage shall be subject to the following:

1) The Family must request the prior coverage for the child within six months following the initial date of coverage under the KidCare Health Plan.

2) The prior coverage will be child specific and will only be available the first time the child is enrolled in the Program.

3) The prior coverage will begin with services rendered during the two weeks prior to the date the child's application for the KidCare Health Plan was filed and will continue until the child's coverage under the KidCare Health Plan is effective pursuant to Section 125.240(e).

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Section 125.245

In subsection (a)(4), "insurance" has been stricken and ", Rebate amount" has been added after "Coverage".

In subsection (d)(2), ", (800/435-0774), or" has been added after "number".

Section 125.250

In subsection (b), "or its designee" has been added after "Department".

Section 125.260

The last sentence in subsection (a) has been changed to read "Coverage for children added shall be prospective from the effective date determined according to Section 125.240(e) and shall continue for the remainder of the Family's original 12-month eligibility period and may also include any prior coverage established pursuant to Section 125.240(g)"

The text in subsections (c) and (d) has been deleted and replaced as follows:

c) A child who would otherwise be terminated from KidCare Rebate pursuant to 125.205(c)(3) may change coverage to the KidCare Health Plan without eligibility being reviewed by the Department if the child involuntarily loses coverage through a private or employer-based health insurance plan if there is no unpaid Rebate overpayment. Coverage under the KidCare Health Plan shall be prospective from the effective date determined according to Section 125.240(e) and shall continue for the remainder of the existing 12-month eligibility period. However, at the time of the change in coverage a Family may choose to have the KidCare Share or Premium coverage retroactive to the first day of the first month following the last month of coverage under the private or employer sponsored insurance if the Family refunds within 30 days after the Department's notice that the child's coverage has been changed to KidCare Health Plan and any Rebate payment received for a month in which there was no private or employer

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based insurance coverage, notwithstanding Section 125.445(c).

d) A child who would otherwise be terminated from the KidCare Health Plan pursuant to Section 125.205(c)(6) may change coverage to KidCare Rebate without eligibility being reviewed by the Department if the child obtains coverage through a private or employer-based insurance plan, returns a Rebate form within 30 days after the Department's notice that the Family's coverage under KidCare Health Plan is being terminated and there are no unpaid premiums owed to the Department. Coverage under KidCare Rebate shall be prospective from the effective date determined according to Section 125.240(e) following receipt by the Department of a completed Rebate Form and shall continue for the remainder of the existing 12-month eligibility period.

Section 125.310

The text in subsection (c) has been stricken and subsections (d) through (j) have been relabeled accordingly.

Section 125.445 Subsection (c) has been revised to read "In cases where the Family notified the Department of the loss of insurance within ten days after the end of coverage but past the date when the Department was able to stop issuance of the next Rebate check, that Rebate check is not an overpayment."

No other substantive changes have been made in the text of the proposed amendments.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will these amendments replace emergency amendments currently in effect? Yes

14) Are there any other amendments pending on this Part? No

15) Summary and Purpose of Amendments: These amendments provide KidCare Program changes and respond to a directive from the Health Care Financing Administration (HCFA) concerning cost sharing requirements under the Children's Health Insurance Program (Title XXI) (known as KidCare in Illinois). This Program assists families in obtaining coverage for medical services for their children who are not eligible for coverage under Medicaid. KidCare provides coverage for uninsured children and for children with insurance coverage, by subsidizing the cost of privately sponsored health insurance. Current KidCare provisions for children lacking insurance include nominal copayments for providers and premiums, paid to the Department, that are determined on the basis of family size

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and monthly countable income. According to the HCFA directive, all American Indian and Alaska Native (AI/AN) children are to be exempt from these cost sharing requirements. On October 6, 1999, HCFA issued guidance to states that approval would not be granted for state plans or plan amendments that impose cost sharing requirements upon families with AI/AN children enrolled for health benefits coverage under Title XXI. Federal proposed amendments regarding these changes were published in the Federal Register on November 8, 1999. The Department responded to HCFA, stating the commitment to seek change in Illinois law to effect compliance with the proposed federal requirements. Subsequently, HCFA indicated that Illinois' Title XXI State Plan amendment concerning KidCare Share and KidCare Premium, currently pending federal approval, would not be approved until the federally specified exemption provisions have been implemented. Therefore, the cost sharing exemption for families with AI/AN children was effective on March 1, 2000, under a related emergency rulemaking. Other changes are being made in many Sections of Part 125 to provide necessary updates to the Children's Health Insurance Program. These changes are the result of observations regarding the initial period of program operation and agreements on program areas that will 3enefit from changes in requirements and procedures. Following are the most significant changes: Section 125.240 - These changes define KidCare Share and KidCare Premium in terms of a percentage of Federal Poverty Levels rather than the actual income levels in Sections 125.310 and 125.320, which change yearly. Section 125.310 - Clarifications are provided on when copayments cannot be charged. Section 125.330 - For payment of premiums, the grace period is changed from 30 to 60 days. Section 125.440 - Clarifications describe the calculation of the maximum Rebate payment and define Rebate overpayment. These amendments are not expected to result in any appreciable budgetary changes. The estimated annual budget increase related to the cost sharing exemptions will be approximately $1,500. Failure to obtain federal approval for the pending State Plan amendment would result in a cost to the State of approximately $4.4 million in lost federal matching funds.

16) Information and questions regarding these adopted amendments shall be directed to:

Joanne Jones
Office of the General Counsel, Rules Section
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002
(217) 524-0081

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF PUBLIC AID

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TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 125
CHILDREN'S HEALTH INSURANCE PROGRAM

SUBPART A: GENERAL PROVISIONS

Section
125.100 General Description
125.110 Definitions

SUBPART B: GENERAL ELIGIBILITY AND ENROLLMENT

Section
125.200 Eligibility for Children's Health Insurance Program
125.205 Eligibility Exclusions and Terminations
125.220 Application Process
125.230 Determination of Monthly Countable Income
125.240 Eligibility Determination and Enrollment Process
125.245 Appeals
125.250 Annual Renewals ~~Determinations~~
125.260 Adding Children to and Removing Children from the Program and Changes in Participation

SUBPART C: KIDCARE HEALTH PLAN

Section
125.300 Covered Services
125.305 Service Exclusions
125.310 Copayments
125.320 Premium Requirements
125.330 Non-payment of Premium
125.340 Provider Reimbursement

SUBPART D: KIDCARE REBATE

Section
125.400 Minimum Coverage Requirements
125.420 Coverage Verification Process
125.440 KidCare Insurance Rebate
125.445 Rebate Overpayments

AUTHORITY: Implementing and authorized by the Children's Health Insurance Program Act [215 ILCS 106] and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13].

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SOURCE: Adopted by emergency rulemaking at 22 Ill. Reg. 15706, effective August 12, 1998, for maximum of 150 days; adopted at 23 Ill. Reg. 543, effective December 24, 1998; emergency amendment at 24 Ill. Reg. 4217, effective March 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 11822, effective JUL 28 2000.

SUBPART A: GENERAL PROVISIONS

Section 125.100 General Description

This Part implements the Children's Health Insurance Program Act [215 ILCS 106] ~~(see Public Act 90-736)~~ that authorizes the Department to administer an insurance program to assist families in purchasing health insurance benefits for their children. The Program is not an entitlement. The Program will enable eligible children of Illinois, to the extent funding permits, access to health benefits coverage. The Department shall provide health benefits coverage to eligible children through purchasing or providing health care benefits or by subsidizing the cost of privately sponsored health insurance, including employer-based health insurance.

(Source: Amended at 24 Ill. Reg. 11822, effective JUL 28 2000)

Section 125.110 Definitions

For the purpose of this Part, the following terms shall be defined as follows:

"Act" means the Children's Health Insurance Program Act [215 ILCS 106] ~~(Public Act 90-736)~~.

"Caretaker Relative" means a relative, with whom the child lives, who is providing care, supervision and a home for the child. Caretaker Relatives ~~relatives~~ include:

Blood or adoptive relatives within the fifth degree of kinship:

father and mother

brother and sister

grandmother and grandfather (including up to great-great-great)

uncle and aunt (including up to great-great)

nephew and niece (including up to great-great)

first cousin

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first cousin once removed (child of first cousin)

second cousin (child of great-aunt/uncle)

Step relatives:

step-father and step-mother

step-brother and step-sister

A person ~~Person~~ who is or has been married to one of the above relatives.

"Department" means the Department of Public Aid and any successor agencies.

"Family" means the child applying for the Program and the following persons who live with the child:

The child's parent(s)

The spouse of the child's parent

Children under 19 years of age of the parent(s) or the parent's spouse

The spouse of the child

The children of the child

If any of the above is pregnant, the unborn child(ren).

~~"Emergency"--means-the-provision-of-health-care-services-for-a-medical condition-of-recent-onset-and-severity-that-would-lead-a--prudent--lay person,--possessing--an--average--knowledge-of-medicine-and-health,-to believe--that--urgent--or--unscheduled--medical--care---is---required. Determinations--of--levels-of-service-shall-be-based-upon-the-symptoms and-condition-of-the-patient-at-the--time--the--patient--is--initially examined--by-the-physician-and-not-upon-the-final-determination-of-the patient's-actual-medical-condition.~~

"Federal Poverty Level" means the federal poverty income guidelines as established by the federal Department of Health and Human Services and published in the *Federal Register* ~~annually-within-30--days--after--the Consumer-Price-Index-data-are-released~~.

"KidCare Health Plan" means the health benefits coverage containing cost sharing features that is available to eligible Families ~~families~~

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under the Children's Health Insurance Program, and includes ~~will include~~ KidCare Share (no premium required) and KidCare Premium (premium required).

"KidCare Rebate" means the program under which the Department, on behalf of an eligible child, makes Rebate ~~rebate~~ payments to offset a Family's ~~family's~~ cost of insuring a child under privately sponsored or employer-based health insurance.

~~"Managed-Care-Entity-or-MCE"-means-a-Health--Maintenance--Organization or--a--Managed--Care--Community-Network-or-a-Prepaid-Health-Plan-under contract-with-the-Department.~~

"Medical Assistance" means health care benefits provided under Article V of the Illinois Public Aid Code.

"Program" means the program created under the Children's Health Insurance Program Act and this Part.

"Rebate" means the payment made by the Department under KidCare Rebate.

"REV" means the Recipient Eligibility Verification system through which medical providers can obtain eligibility and claim status information electronically.

"Significant Health Insurance" means coverage that includes physician services and inpatient hospital services that would qualify for coverage under KidCare Rebate.

(Source: Amended at 24 Ill. Reg. 11822, effective JUL 28 2000)

SUBPART B: GENERAL ELIGIBILITY AND ENROLLMENT

Section 125.200 Eligibility for Children's Health Insurance Program

A child may be eligible under the Program provided that all of the following eligibility criteria are met:

a) The child is not eligible for Medical Assistance.
b) The child is under age 19.
c) The child is a member of a Family ~~family~~ whose monthly countable income is above 133 percent of the Federal Poverty Level and at or below 185 percent of the Federal Poverty Level.
d) The child is a resident of the State of Illinois.
e) The child is either a United States citizen or included in one of the following categories of non-citizens:
 1) Unmarried dependent children of either a United States veteran

~~Veteran~~ honorably discharged or a person on active military duty.

2) Refugees under Section 207 of the Immigration and Nationality Act.

3) Asylees under Section 208 of the Immigration and Nationality Act.

4) Persons for whom deportation has been withheld under Section 243(h) of the Immigration and Nationality Act.

5) Persons granted conditional entry under Section 203(a)(7) of the Immigration and Nationality Act as in effect prior to April 1, 1980.

6) Persons lawfully admitted for permanent residence under the Immigration and Nationality Act.

7) Parolees, for at least one year, under Section 212(d)(5) of the Immigration and Nationality Act.

(Source: Amended at 24 Ill. Reg. 11822, effective JUL 22 2000)

Section 125.205 Eligibility Exclusions and Terminations

a) A child shall not be determined eligible for coverage under the Program if:

1) The child is an inmate of a public institution ~~correctional facility or a patient in a mental institution~~.

2) The child is a patient in an institution for mental diseases.

3) The child is a member of a Family ~~family~~ that is eligible for health benefits coverage under a State of Illinois health benefits plan on the basis of a member's employment with a public agency.

~~3) The application is for coverage under the KidCare Health Plan, described in Subpart C of this Part, and the child was covered under a private or employer based insurance plan during any of the three months preceding his or her application for coverage under the Program.~~

4) The child is in categories described in Section 125.200(e)(6) or (e)(7), and the child entered the United States on or after August 22, 1996; he or she shall not be eligible for five years beginning on the date the child entered the United States.

b) If a child is otherwise eligible for coverage under the KidCare Health Plan, described in Subpart C of this Part, and the child was previously covered under a private or employer-based insurance plan, coverage under the KidCare Health Plan shall not begin until the first day of the month following a three-month period that shall begin on the day following the last day of the coverage under the private or employer-based insurance plan. The three-month ~~three-month~~ period of being uninsured specified in this subsection (b)~~(a)(3) above~~ does not apply ~~in the following situations: 1) A child is applying for coverage under the KidCare Rebate, described in Subpart B of this Part; 2) A child becomes ineligible for Medical Assistance under Article V of the~~

~~Public Aid Code and applies for coverage under the Program; 3) A~~ if the child involuntarily loses coverage through a private or employer-based insurance plan ~~and applies for coverage under the KidCare Health Plan~~.

c) Termination of a child's coverage under ~~from~~ the Program shall be initiated upon the occurrence of any of the following events:

1) The child becomes ineligible due to:

A) Losing his or her Illinois residency.

B) Attaining 19 years of age.

C) Becoming enrolled in Medical Assistance.

D) Meeting the provisions of subsection (a)(1) or (a)(3)~~(a)(2)~~ of this Section.

2) The child's Caretaker Relative fails ~~Failing~~ to pay the required premiums under the KidCare Health Plan, as specified in Sections 125.320 and 125.330.

3) A child enrolled in KidCare Rebate no longer being covered under a private or employer-based health insurance plan, except that a child may change enrollment from KidCare Rebate to the KidCare Health Plan pursuant to Section 125.260(c) when loss of insurance was involuntary.

4) The child's Caretaker Relative fails ~~Failing~~ to report to the Department changes in non-financial information that impacts upon the child's eligibility for the Program.

5) The child's Caretaker Relative ~~caretaker relative~~ makes a request to the Department to terminate the coverage.

6) The Department determines that a child enrolled under the KidCare Health Plan has other Significant Health Insurance, except that a child may change enrollment from KidCare Health Plan to KidCare Rebate pursuant to Section 125.260(d) ~~significant health insurance~~.

7) The Department determines that the child is no longer eligible based on any other applicable State or federal law or regulation.

8) The Department determines that the child's Caretaker Relative failed ~~Failing~~ to provide eligibility information that was ~~is~~ truthful and accurate to the best of the applicant's knowledge and belief and that affected the eligibility determination.

9) There has been a Rebate overpayment and it has not been repaid to the Department according to terms established by the Department, which may include recoupment out of future Rebate payments or a payment plan.

10) The Department determines that the child's eligibility was incorrectly determined.

d) Following termination of a child's coverage under ~~from~~ the Program, the following action is required before the child can be re-enrolled ~~to reapply~~:

1) A new application must be completed and the child must be determined otherwise eligible;~~.~~

2) There must be full payment of premiums under the KidCare Health

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Plan, for periods in which a premium was owed and not paid for the child, including premiums owed when the child was, for purposes of this Part, a member of another Family;~~.~~

3) Any overpayment of Rebates paid on behalf of the child must be repaid to the Department. A Rebate overpayment shall be considered repaid if the Department can recoup the overpayment out of future Rebate payments. ~~There must be repayment of Rebates paid under KidCare Rebate, for periods during which the child was not covered under a private or employer based insurance plan.~~

4) If the termination was the result of non-payment of premiums, the child must be out of the program for three months before re-enrollment; and

5) The first month's premium must be paid if the child is eligible for KidCare Premium and the child's Family chose to have coverage under subsection (g) of this Section when the child was initially enrolled in the Program or if there was an unpaid premium on the date the child's previous case was canceled.

e) An application will be denied if any of the adults in the Family was a Caretaker Relative of a child during a period for which a premium was due to the Department for that child and the premium remains unpaid at the time of application. Such an application shall be denied regardless of whether the child for whom the premium remains unpaid is included in the application.

f) An application will be denied if any of the adults in the Family was a Caretaker Relative of a child during a period for which a Rebate overpayment was received or was the payee of a Rebate overpayment and the overpayment has not been repaid to the Department. Such an application shall be denied regardless of whether the child for whom the Rebate overpayment remains unpaid is included in the application.

g)~~e)~~ A certificate of prior creditable coverage will be issued when a child's coverage is terminated under the KidCare Health Plan.

(Source: Amended at 24 Ill. Reg. 11822, effective JUL 28 2000)

Section 125.220 Application Process

a) Families will be able to apply for the Program using any of the following methods:

1) Submit ~~Submitting~~ the Department's application to an address specified by the Department.

2) Apply ~~Applying~~ at a Department of Human Services (DHS) local office.

3) Apply through a KidCare Application Agent that has an agreement in place with ~~Applying at a Maternal and Child Health (MCH) enrollment site, as designated by~~ the Department.

4) Additional methods that the Department establishes.

b) The application will meet all requirements found at 89 Ill. Adm. Code

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c) Families are obligated to provide truthful and accurate information for determining eligibility and to report promptly to the Department any change in non-financial information provided on the application.

d) The Department may cease accepting or processing applications if enrollment in the Program is closed due to limited appropriations.

(Source: Amended at 24 Ill. Reg. 11822, effective JUL 28 2000)

Section 125.230 Determination of Monthly Countable Income

a) Monthly countable income for applications processed for the Program is determined by taking the total gross monthly income of the Family ~~family~~ and subtracting allowable deductions and exemptions as described in 89 Ill. Adm. Code 120, Subpart H.

b) For the purpose of subsection (a) of this Section, ~~the following applies:~~ ~~1)~~ the ~~The~~ number of persons in the Family ~~family~~ determines the applicable income standard.

~~2) For the purpose of subsection (a) of this Section, family means the child applying for the Program and the following persons who live with the child:~~

~~A) The child's parent(s).~~

~~B) The spouse of the child's parent(s).~~

~~C) Children under age 19 of the parent(s) or the parent's spouse.~~

~~B) The spouse of the child.~~

~~E) The children of the child.~~

(Source: Amended at 24 Ill. Reg. 11822, effective JUL 28 2000)

Section 125.240 Eligibility Determination and Enrollment Process

a) If the monthly countable income is at or below 133 percent of the Federal Poverty Level for the number of persons in the Family ~~income standard~~, the child will be enrolled in Medical Assistance, if otherwise determined eligible pursuant to 89 Ill. Adm. Code 120, Subpart H.

b) If the monthly countable income is above 133 percent and at or below 185 percent of the Federal Poverty Level for the number of persons in the Family ~~income standard~~, and all other eligibility requirements of this Part are met and enrollment is open, the child will be enrolled in the Program.

c) For purposes of cost sharing, Families in the KidCare Health Plan will be enrolled into either KidCare Share or KidCare Premium as follows:

1) If monthly countable income is above 133 percent and at or below 150 percent of the Federal Poverty Level for the number of

persons in the Family, the child will be enrolled in KidCare Share.

2) If monthly countable income is above 150 percent and at or below 185 percent of the Federal Poverty Level for the number of persons in the Family, the child will be enrolled in KidCare Premium.

d)~~c)~~ Applicants will be notified, in writing, regarding the outcome of their eligibility determination.

e)~~d)~~ Eligibility determinations for the Program made by the fifteenth day of the month will be effective the first day of the following month. Eligibility determinations for the Program made after the fifteenth day of the month will be effective no later than the first day of the second month following that determination.

~~e) Monthly identification cards will be issued for each family with a child enrolled under the KidCare Health Plan. At a minimum, information on the card will include:~~

~~1) The child's name.~~

~~2) Coverage month.~~

~~3) Copayment amounts and exclusions.~~

~~4) Message when copayment cap is reached.~~

~~5) Managed Care Entity chosen, if applicable.~~

f) The duration of eligibility for the Program will be 12 months unless one of the events described in Section 125.205(c) occurs. The 12 months of eligibility will commence when the first child in a Family ~~family~~ is covered under the Program. Children added to the Program after the eligibility period begins will be eligible for the balance of the 12-month ~~12-month~~ eligibility period.

g) Children determined to be eligible for the KidCare Health Plan may obtain coverage for a period prior to the date of application for the Program. This coverage shall be subject to the following:

1) The Family must request the prior coverage for the child within six months following the initial date of coverage under the KidCare Health Plan.

2) The prior coverage will be child specific and will only be available the first time the child is enrolled in the Program.

3) The prior coverage will begin with services rendered during the two weeks prior to the date the child's application for the KidCare Health Plan was filed and will continue until the child's coverage under the KidCare Health Plan is effective pursuant to Section 125.240(e).

(Source: Amended at 24 Ill. Reg. 11822, effective JUL 28 2000)

Section 125.245 Appeals

a) Any individual who applies for or receives assistance under the Program shall have the right to appeal any of the following actions:

1) Refusal to accept an application.

2) Denial of an application or cancellation at the annual renewal ~~determination~~ including denial based on failure to meet one or more of the eligibility requirements specified in this Part. If the denial or cancellation is not upheld on appeal, coverage under the Program shall be retroactive to the date the coverage would have commenced had the application or annual determination been approved. However, if the child is eligible for KidCare Premium, it will be at the Family's option whether coverage following a successful appeal shall be prospective only for the remainder of the 12-month period following application or retroactive to the date the coverage would have commenced had the application been approved. All premium and copayment requirements shall apply to the retroactive period.

3) Termination of coverage based on failure to continue to meet one or more of the eligibility requirements specified in this Part. Coverage shall not be continued during the appeal process. If the termination is not upheld on appeal, coverage under the Program shall be reinstated retroactive to the termination date. However, if the child is eligible for KidCare Premium, it will be at the Family's option whether coverage following a successful appeal shall be prospective only for the remainder of the 12-month period following application or retroactive to the date of termination. All ~~and all~~ premium and copayment requirements shall apply to any retroactive period.

4) Determination ~~or redetermination~~ of the amount of the premium, ~~insurance~~ Rebate, or copayments required. Coverage, Rebate amount and any premium or copayment requirements, as determined by the Department, shall remain in force during the appeal process.

b) In addition to the actions that are appealable under subsection (a) of this Section, individuals covered under the KidCare Health Plan shall have the right to appeal any of the following actions:

1) Termination of coverage due to non-payment of the required premium.

2) Denial of payment for a medical service or item that requires prior approval.

3) Decision granting prior approval for a lesser or different medical service or item than was originally requested.

c) The Department's decision to deny an application due to closing of enrollment for the Program shall not be appealable.

d) Individuals may initiate the appeal process by:

1) Filing a written, signed request for a hearing directed to the Department's Assistance Hearings Section;

2) Calling a toll free telephone number, (800/435-0774), or as designated by the Department.

e) The request for a hearing may be filed by the individual affected by the action or by the individual's authorized representative.

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f) For purposes of initiating the appeal process, a copy of a written, signed request for a hearing is considered the same as the original written, signed request.
g) The request for a hearing must be filed no later than 60 days after notice of the appealable action has been given.
h) Unless otherwise specified, coverage shall not be continued when an appeal is pending.
i) The provisions of Subpart A of the Department's administrative rules at 89 Ill. Adm. Code 104, Practice in Administrative Hearings, shall govern the handling of appeals and the conduct of hearings under the Program.
j) An individual can, prior to a decision being rendered on the appeal, ~~withdraw the appeal and~~ reapply for the Program.

(Source: Amended at 24 Ill. Reg. 11822, effective JUL 28 2000)

Section 125.250 Annual Renewals ~~Determinations~~

a) Eligibility ~~determinations~~ shall be reviewed by the Department, or its authorized agent, at least annually.
b) Prior to the 12-month ~~12--month~~ eligibility period ending, and in sufficient time for the Family ~~family~~ to respond to the Department's request for information, the Department or its designee will send an annual renewal ~~determination~~ notice to the Family ~~family~~.
c) Annual renewals ~~determinations~~ shall be subject to all eligibility requirements set forth in Sections 125.200 and 125.205.

(Source: Amended at 24 Ill. Reg. 11822, effective JUL 28 2000)

Section 125.260 Adding Children to and Removing Children from the Program and Changes in Participation

a) Families may add eligible children to the Program during the 12-month ~~12-month~~ eligibility period, without eligibility being reviewed by the Department ~~having to submit an application~~. Coverage for children added shall be prospective from the effective date determined according to Section 125.240(e) and shall continue for the remainder of the Family's original 12-month eligibility period and may also include any prior coverage established pursuant to Section 125.240(q).
b) Premium amounts under the KidCare Health Plan and Rebates under KidCare Rebate will be adjusted to reflect adding or removing a child from the Program.
c) A child who would otherwise be termined from KidCare Rebate pursuant to 125.205(c)(3) may change coverage to the KidCare Health Plan without eligibility being reviewed by the Department if the child involuntarily loses coverage through a private or employer-based health insurance plan if there is no unpaid Rebate overpayment. Coverage under the KidCare Health Plan shall be prospective from the effective date determined according to Section 125.240(e) and shall continue for the remainder of the existing 12-month eligibility period. However, at the time of the change in coverage a Family may choose to have the KidCare Share or/Premium coverage retroactive to the first day of the first month following the last month of coverage under the private or employer sponsored insurance if the Family refunds within 30 days after the Department's notice that the child's coverage has been changed to KidCare Health Plan and any Rebate payment received for a month in which there was no private or employer based insurance coverage, notwithstanding Section 125.445(c).

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d) A child who would otherwise be terminated from the KidCare Health Plan pursuant to Section 125.205(c)(6) may change coverage to KidCare Rebate without eligibility being reviewed by the Department if the child obtains coverage through a private or employer-based insurance plan, returns a Rebate form within 30 days after the Department's notice that the Family's coverage under KidCare Health Plan is being terminated and there are no unpaid premiums owed to the Department. Coverage under KidCare Rebate shall be prospective from the effective date determined according to Section 125.240(e) following receipt by the Department of a completed Rebate Form and shall continue for the remainder of the existing 12-month eligibility period.

(Source: Amended at 24 Ill. Reg. 11822, effective JUL 28 2000)

SUBPART C: KIDCARE HEALTH PLAN

Section 125.300 Covered Services

~~a)~~ For children covered under the KidCare Health Plan, covered health care services shall be the same covered services for children as described at 89 Ill. Adm. Code 140, 77 Ill. Adm. Code 2090, and 59 Ill. Adm. Code 132, except as provided in Section 125.305, and ~~unless contrary to the moral or religious beliefs as defined in the Right of Conscience Act (745 ILCS 70),~~ subject to appropriation and any applicable cost sharing requirements defined in Section 125.310 and Section 125.320.

~~b) Children determined to be eligible for the KidCare Health Plan may obtain coverage for a period prior to the date of application for the Program. This coverage shall be subject to the following:~~
~~1) The family must request the prior coverage for the child within six months following the initial date of coverage under the KidCare Health Plan.~~
~~2) The prior coverage will be child specific and will only be available upon the child's initial application and approval for the Program.~~
~~3) If coverage lapses, re-enrollment shall be completed in advance~~

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~~of the next covered medical visit and the first month's premium, if applicable, shall be paid in advance of any covered medical visit.~~

~~4) The prior coverage will begin with services rendered during the two weeks prior to the date the child's application for the KidCare Health Plan is filed and will continue until the child's coverage under the KidCare Health Plan is effective.~~

(Source: Amended at 24 Ill. Reg. 11822, effective JUL 28 2000)

Section 125.310 Copayments

a) Copayments may be charged to the Family by a health care professional whenever the service is performed in an office or home setting, except for visits scheduled for well-baby care, well-child care or age-appropriate immunizations. Copayments may also be charged to the Family by hospitals, once per inpatient admission or outpatient encounter (including the emergency room). No copayment is permitted for visits to health care professionals or hospitals made solely for speech, occupational or physical therapy, audiology, radiology or laboratory services (including APL Group 2 procedures). Families with an enrolled child who is an American Indian or Alaska Native shall not be charged copayments.

b) Copayment requirements are as follows:
 1) Practitioner office visit:
 A) KidCare Share ~~Level I~~ copayment: $2 per visit.
 B) KidCare Premium ~~Level II~~ copayment: $5 per visit.
 2) Home health care visit:
 A) KidCare Share ~~Level I~~ copayment: $2 per visit.
 B) KidCare Premium ~~Level II~~ copayment: $5 per visit.
 3) Inpatient hospitalization:
 A) KidCare Share ~~Level I~~ copayment: $2 per admission.
 B) KidCare Share ~~Level II~~ copayment: $5 per admission.
 4) Outpatient encounter (including the emergency room):
 A) KidCare Share ~~Level I~~ copayment: $2 per visit.
 B) KidCare Premium ~~Level II~~ copayment: $5 per visit.
 5) Prescription drugs:
 A) KidCare Share ~~Level I~~ copayment: $2 for a 1- to 30-day ~~1-30 day~~ supply on both generic and brand name drugs.
 B) KidCare Premium ~~Level II~~ copayments: $3 for a 1- to 30-day ~~1-30-day~~ supply on generic drugs or $5 for 1- to 30-day ~~1-30 day~~ supply on brand name drugs.
 6) Nonemergency visit to an emergency room:
 A) KidCare Share ~~Level I~~ copayments: $2 per visit.
 B) KidCare Premium ~~Level II~~ copayment: $25 per visit.

~~c) Copayment requirements will be determined based upon the monthly countable income as calculated in Section 125.230.~~

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cd) The maximum out-of-pocket expense a Family will incur for copayments during a 12-month ~~12-month~~ eligibility period is $100.

de) Once the Family has satisfied the copayment cap, the Family ~~The family~~ is responsible for submitting receipts, to the Department, documenting the payment of copayments. The Department may return partial documentation received on copayments to the Family ~~family~~.

ef) Upon the Department determining that the copayment cap has been satisfied, the following will occur:
 1) A notice stating that the copayment cap has been satisfied, and the date satisfied, will be sent to the Family ~~family~~.
 2) A message that the copayment cap has been satisfied, and the date satisfied, will be available through the Family's ~~printed on the next monthly~~ identification card.
 3) REV will be updated to reflect that the copayment cap has been reached.

fg) Providers will be responsible for collecting copayments under the KidCare Health Plan.

gh) Providers may elect not to charge copayments. If copayments are charged, the copayment must comply with the requirements in this Section.

hi) Providers shall be responsible for refunding to the Family ~~family~~ copayments they collect after the Family ~~family~~ has reached the copayment cap.

ij) The Department will not require providers to deliver services when copayments properly charged under the KidCare Health Plan are ~~will~~ not ~~be~~ paid.

~~k) Copayment levels will be determined based on family size and monthly countable income as follows:~~

~~1) For family size of one:~~

~~A) Level I copayment: monthly countable income of $893 to $1,006.~~

~~B) Level II copayment: monthly countable income of $1,007 to $1,241.~~

~~2) For family size of two:~~

~~A) Level I copayment: monthly countable income of $1,204 to $1,356.~~

~~B) Level II copayment: monthly countable income of $1,357 to $1,673.~~

~~3) For family size of three:~~

~~A) Level I copayment: monthly countable income of $1,514 to $1,706.~~

~~B) Level II copayment: monthly countable income of $1,707 to $2,104.~~

~~4) For family size of four:~~

~~A) Level I copayment: monthly countable income of $1,824 to $2,056.~~

~~B) Level II copayment: monthly countable income of $2,057 to $2,536.~~

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~~5) For family size of five:~~
~~A) Level I copayment: monthly countable income of $2,135 to $2,406.~~
~~B) Level II copayment: monthly countable income of $2,407 to $2,960.~~
~~6) For family size of six:~~
~~A) Level I copayment: monthly countable income of $2,445 to $2,756.~~
~~B) Level II copayment: monthly countable income of $2,757 to $3,399.~~
~~7) For family size of seven:~~
~~A) Level I copayment: monthly countable income of $2,755 to $3,106.~~
~~B) Level II copayment: monthly countable income of $3,107 to $3,831.~~
~~8) For family size of eight:~~
~~A) Level I copayment: monthly countable income of $3,066 to $3,456.~~
~~B) Level II copayment: monthly countable income of $3,457 to $4,263.~~
~~9) For family units of more than eight members, add $233 for each additional member.~~
~~l) The Department will review and update income levels annually to reflect changes in the Federal Poverty levels.~~

(Source: Amended at 24 Ill. Reg. 11822, effective JUL 28 2000)

Section 125.320 Premium Requirements

a) Families with children enrolled in KidCare Premium pursuant to Section 125.240(c) must pay the premiums established by this Section. ~~Premium requirements under the KidCare Health Plan will be determined as follows:~~
~~1) For family size of one:~~
~~A) No premium required: monthly countable income of $893 to $1,006.~~
~~B) Premium required: monthly countable income of $1,007 to $1,241.~~
~~2) For family size of two:~~
~~A) No premium required: monthly countable income of $1,204 to $1,356.~~
~~B) Premium required: monthly countable income of $1,357 to $1,673.~~
~~3) For family size of three:~~
~~A) No premium required: monthly countable income of $1,514 to $1,706.~~
~~B) Premium required: monthly countable income of $1,707 to~~

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~~$2,104.~~
~~4) For family size of four:~~
~~A) No premium required: monthly countable income of $1,824 to $2,056.~~
~~B) Premium required: monthly countable income of $2,057 to $2,536.~~
~~5) For family size of five:~~
~~A) No premium required: monthly countable income of $2,135 to $2,406.~~
~~B) Premium required: monthly countable income of $2,407 to $2,960.~~
~~6) For family size of six:~~
~~A) No premium required: monthly countable income of $2,445 to $2,756.~~
~~B) Premium required: monthly countable income of $2,757 to $3,399.~~
~~7) For family size of seven:~~
~~A) No premium required: monthly countable income of $2,755 to $3,106.~~
~~B) Premium required: monthly countable income of $3,107 to $3,831.~~
~~8) For family size of eight:~~
~~A) No premium required: monthly countable income of $3,066 to $3,456.~~
~~B) Premium required: monthly countable income of $3,457 to $4,263.~~
~~9) For family units of more than eight members, add $233 for each additional member.~~

b) ~~Premium requirements will be determined based upon the monthly countable income as calculated in Section 125.230.~~
~~c)~~ The premium amounts are $15 for one child, $25 for two children and $30 for three or more children.
c)~~d)~~ Premiums are billed by and payable to the Department, or its authorized agent, on a monthly basis.
d)~~e)~~ The premium due date will be 26 days after the fifth day of the calendar month preceding the month of coverage.
e)~~f)~~ The premium will not change during the eligibility period, unless ~~the family reports a decrease in monthly countable income placing the family in the no premium level or~~ the Family ~~family~~ adds or removes children from the coverage.
f)~~g)~~ No premiums shall be charged to Families with an enrolled child who is an American Indian or Alaska Native ~~The Department will review and update income levels annually to reflect changes in the Federal Poverty levels.~~

(Source: Amended at 24 Ill. Reg. 11822, effective JUL 28 2000)

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Section 125.330 Non-payment of Premium

a) KidCare Health Plan participants will have a grace period through the end of the month following the coverage month to pay the premium.
b) Failure to pay the full monthly premium by the last day of the grace period will result in termination of coverage.
c) Partial premium payments will not be refunded.
d) Collection action will be initiated by the Department to collect unpaid premiums.

(Source: Amended at 24 Ill. Reg. 11822, effective JUL 28 2000)

Section 125.340 Provider Reimbursement

a) Providers under this Part shall be subject to approval by the Department to provide health care under the Illinois Public Aid Code.
b) Provider participation under this Part shall be voluntary.
c) Providers under this Part shall be reimbursed in accordance with the established rates of the Department or other appropriate State agency.
d) In addition to reimbursements received from the Department, providers may retain copayments defined in Section 125.310.
e) Providers under this Part shall be prohibited from billing Families ~~families~~ covered under the KidCare Health Plan any difference between the charge amount and the amount paid by the Department, except for copayments as specified in Section 125.310.
f) Providers shall be responsible for refunding to the Family ~~participant~~ copayments collected in excess of the amounts permitted by this Part.

(Source: Amended at 24 Ill. Reg. 11822, effective JUL 28 2000)

SUBPART D: KIDCARE REBATE

Section 125.400 Minimum Coverage Requirements

For an eligible child to participate in KidCare Rebate, the eligible child must be covered by an insurance plan that offers comprehensive major medical coverage providing benefits for physician services and hospital inpatient services.

(Source: Amended at 24 Ill. Reg. 11822, effective JUL 28 2000)

Section 125.420 Coverage Verification Process

a) All applications for participation in KidCare Rebate must be accompanied by the Department's Insurance Rebate Form.

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b) Verification of insurance coverage for the previous coverage period ~~12 months~~ will be required at the annual renewal of ~~on-reapplication-for~~ KidCare Rebate.
c) The Department, or its authorized agent, may verify insurance coverage for participants under KidCare Rebate.
~~d) Collection-action-will-be--initiated--by--the--Department--to--collect Rebates--paid--when--a--child--was--not--covered--under--a--private-or employer-based-health-plan.~~

(Source: Amended at 24 Ill. Reg. _____, effective JUL 28 2000)

Section 125.440 KidCare Insurance Rebate

a) The Rebate will be paid to the individual policyholder insuring the child.
b) The Department will issue Rebates on a monthly basis.
c) The total dollar amount of the Rebate paid by the Department per child per month shall be the lesser of:
 1) The maximum monthly amount set by the Department calculated in accordance with the restrictions in 215 ILCS 106/25 and available appropriations ~~average-dollar-payment,-less-premium-incurred-per child-per-month,-paid-by-the-Department-under-the-KidCare--Health Plan~~, or
 2) The policyholder's monthly portion of the premium paid for coverage of children enrolled under KidCare Rebate.
d) The Department shall set the amount of the Rebate, described in subsection (c) of this Section, prospectively ~~based-upon-the-prior fiscal-year's-experience-adjusted--for--incurred,--but--not--reported, claims--and--estimated--increases--or-decreases-in-the-cost-of-medical care.--In-calculating-the-Rebate-amount-for-periods-prior-to--July--1, 1999,--the--Department--will--use--State-fiscal-year-1996-payments-for children-eligible-for-Medical-Assistance-and-income--assistance--under the--Aid-to-Families-with-Dependent-Children-Program,-with-appropriate adjustments-for-cost-and-utilization-changes-through-January-1,-1999.~~
e) To be eligible for payment, a Rebate must equal at least one dollar.

(Source: Amended at 24 Ill. Reg. _____, effective JUL 28 2000)

Section 125.445 Rebate Overpayments

a) For purposes of this Part, a Rebate overpayment occurs in any of the following circumstances:
 1) the monthly Rebate paid was higher than the policyholder's portion of the premium of the children enrolled in KidCare Rebate;
 2) the monthly Rebate paid per child was higher than the maximum

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monthly amount set by the Department pursuant to Section 125.440(c)(1);

3) the Rebate was paid for a child who was incorrectly enrolled in KidCare Rebate due to inaccurate or untruthful information provided on the application; or

4) the Rebate was paid for a period during which the child was not covered by private or employer-based insurance meeting the requirements of Section 125.400.

b) Collection action will be initiated by the Department to collect rebate overpayments.

c) In cases where the Family notified the Department of the loss of insurance within ten days after the end of coverage but past the date when the Department was able to stop issuance of the next Rebate check, that Rebate check is not an overpayment.

d) In cases where a child is covered by private or employer-based insurance (regardless of whether the coverage meets the requirements of Section 125.400) and, due to Department error, Department of Human Services error or inaccurate information from an employer or other third party, a child is enrolled in Rebate that should not have been or a Rebate payment is higher than it would have been if properly calculated based on accurate information, no overpayment occurs, provided the amount sent in any month does not exceed the maximum monthly amount set by the Department pursuant to Section 125.440(c)(1).

(Source: Added at 24 Ill. Reg. 11822, effective JUL 28 2000)

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1) Heading of the Part: Hospital Services

2) Code Citation: 89 Ill. Adm. Code 148

3)

Section Numbers:	Adopted Action:
148.120	Amendment
148.310	Amendment
148.340	Amendment
148.350	Repeal
148.360	Repeal
148.370	Amendment
148.380	Repeal
148.390	Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Effective Date of Amendments: August 1, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register:

Section 148.120

March 31, 2000 (24 Ill. Reg. 5631)

Sections 148.310, 148.340, 148.350, 148.360, 148.370, 148.380 and 148.390

March 17, 2000 (24 Ill. Reg. 4053)

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences Between Proposal and Final Version:

Section 148.120

In subsection (g)(3)(A), "pool" has been changed to "Pool".

In subsection (g)(3)(A), "Section 1923(h)" and "Section 1923(f)" have been changed to "section 1923(h)" and "section 1923(f)".

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In subsection (g)(3)(A), "subsection" has been changed to "subsections".

In subsection (g)(3)(D), "(g)(3)(D)" has been added after "this subsection".

Sections 148.310, 148.340, 148.350, 148.360, 148.370, 148.380 and 148.390

In the first sentence of Section 148.310(e)(3), the extra "and" has been deleted.

No other changes have been made in the text of the proposed amendments.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will these amendments replace emergency amendments currently in effect? No

14) Are there any other amendments pending on this Part? Yes

Sections	Proposed Action	Illinois Register Citation
148.40	Amendment	July 28, 2000 (24 Ill. Reg. 11150)
148.82	Amendment	June 30, 2000 (24 Ill. Reg. 8789)
148.140	Amendment	July 14, 2000 (24 Ill. Reg. 10051)
148.295	Amendment	July 14, 2000 (24 Ill. Reg. 10051)
148.310	Amendment	July 14, 2000 (24 Ill. Reg. 10051)

15) Summary and Purpose of Amendments:

Section 148.120

These amendments to the Department's administrative rules on hospital services pertain to mental health facilities as described in Section 1923(h) of the Social Security Act. The changes convert the disproportionate share (DSH) payment process for State-operated mental health facilities from a per diem payment to a quarterly payment. These changes are being made to ease the administrative burden in setting DSH rates for these facilities and reduce the need for payment reconciliation. Representatives of the Health Care Financing Administration recommended the change to quarterly payments for State-operated mental health facilities in order to make their oversight of the program less burdensome.

Technical changes are also being made to strike obsolete references to the Aid to the Medically Indigent (AMI) Program. AMI was eliminated, effective August 1, 1991, and the related rules were repealed, effective December 24, 1991.

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Total aggregate DSH spending for mental health facilities under these new provisions is not expected to change.

Sections 148.310, 148.340, 148.350, 148.360, 148.370, 148.380 and 148.390

These amendments provide several changes to the Department's rules on hospital services. Revisions to Section 148.310 add technical clarifications on hospital review procedures pertaining to rate calculations, rate adjustments and hospital designations that impact upon rate calculations. These changes specify that written appeals must be post marked or received by the Department within 30 days after the date of the Department's notification to the hospital about reimbursement levels or hospital designations.

Amendments to Part 148 are also being made regarding subacute alcoholism and drug abuse treatment services. These changes are necessary to reflect the responsibility of the Department of Human Services (DHS) for such services through the Office of Alcoholism and Substance Abuse (OASA). OASA receives all billings for these services, performs audits to separate non-Medicaid billings from Medicaid bills, and provides reimbursement for non-Medicaid services. OASA then sends Medicaid bills via tape to the Department for processing. Sections 148.360, 148.350, and 148.380, which provide service descriptions, definitions and rate appeal information, are being proposed for repeal to eliminate duplication since these subjects are now addressed in corresponding DHS rules.

Other Sections are being revised to add updates concerning reimbursement for subacute alcoholism and drug abuse treatment services, clarifications on Medicaid providers who provide treatment for such services and hearing procedures affecting providers. Claims for federal matching funds for these Medicaid eligible services are handled by the Department.

16) Information and questions regarding these adopted amendments shall be directed to:

Joanne Jones
Office of the General Counsel, Rules Section
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002
(217) 524-0081

The full text of the adopted amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMS

PART 148
HOSPITAL SERVICES

Section
148.10 Hospital Services
148.20 Participation
148.25 Definitions and Applicability
148.30 General Requirements
148.40 Special Requirements
148.50 Covered Hospital Services
148.60 Services Not Covered as Hospital Services
148.70 Limitation On Hospital Services
148.80 Organ Transplants Services Covered Under Medicaid (Repealed)
148.82 Organ Transplant Services
148.90 Heart Transplants (Repealed)
148.100 Liver Transplants (Repealed)
148.110 Bone Marrow Transplants (Repealed)
148.120 Disproportionate Share Hospital (DSH) Adjustments
148.130 Outlier Adjustments for Exceptionally Costly Stays
148.140 Hospital Outpatient and Clinic Services
148.150 Public Law 103-66 Requirements
148.160 Payment Methodology for County-Owned Hospitals in an Illinois County with a Population of Over Three Million
148.170 Payment Methodology for Hospitals Organized Under the University of Illinois Hospital Act
148.175 Supplemental Disproportionate Share Payment Methodology for Hospitals Organized Under the Town Hospital Act
148.180 Payment for Pre-operative Days, Patient Specific Orders, and Services Which Can Be Performed in an Outpatient Setting
148.190 Copayments
148.200 Alternate Reimbursement Systems
148.210 Filing Cost Reports
148.220 Pre September 1, 1991, Admissions
148.230 Admissions Occurring on or after September 1, 1991
148.240 Utilization Review and Furnishing of Inpatient Hospital Services Directly or Under Arrangements
148.250 Determination of Alternate Payment Rates to Certain Exempt Hospitals
148.260 Calculation and Definitions of Inpatient Per Diem Rates
148.270 Determination of Alternate Cost Per Diem Rates for All Hospitals; Payment Rates for Certain Exempt Hospital Units; and Payment Rates for Certain Other Hospitals
148.280 Reimbursement Methodologies for Children's Hospitals and Hospitals Reimbursed Under Special Arrangements
148.285 Excellence in Academic Medicine Payments

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148.290 Adjustments and Reductions to Total Payments
148.295 Critical Hospital Adjustment Payments (CHAP)
148.296 Supplemental Critical Hospital Adjustment Payments (SCHAP)
148.297 Pediatric Outpatient Adjustment Payments
148.298 Pediatric Inpatient Adjustment Payments
148.300 Payment
148.310 Review Procedure
148.320 Alternatives
148.330 Exemptions
148.340 Subacute Alcoholism and Substance Abuse Treatment Services
148.350 Definitions (Repealed)
148.360 Types of Subacute Alcoholism and Substance Abuse Treatment Services (Repealed)
148.368 Volume Adjustment (Repealed)
148.370 Payment for Subacute Alcoholism and Substance Abuse Treatment Services
148.380 Rate Appeals for Subacute Alcoholism and Substance Abuse Treatment Services (Repealed)
148.390 Hearings
148.400 Special Hospital Reporting Requirements

AUTHORITY: Implementing and authorized by Articles III, IV, V, VI, and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Sections 148.10 thru 148.390 recodified from 89 Ill. Adm. Code 140.94 thru 140.398 at 13 Ill. Reg. 9572; Section 148.120 recodified from 89 Ill. Adm. Code 140.110 at 13 Ill. Reg. 12118; amended at 14 Ill. Reg. 2553, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 11392, effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 15358, effective September 13, 1990; amended at 14 Ill. Reg. 16998, effective October 4, 1990; amended at 14 Ill. Reg. 18293, effective October 30, 1990; amended at 14 Ill. Reg. 18499, effective November 8, 1990; emergency amendment at 15 Ill. Reg. 10502, effective July 1, 1991, for a maximum of 150 days; emergency expired October 29, 1991; emergency amendment at 15 Ill. Reg. 12005, effective August 9, 1991, for a maximum of 150 days; emergency expired January 6, 1992; emergency amendment at 15 Ill. Reg. 16166, effective November 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 18684, effective December 23, 1991; amended at 16 Ill. Reg. 6255, effective March 27, 1992; emergency amendment at 16 Ill. Reg. 11335, effective June 30, 1992, for a maximum of 150 days; emergency expired November 27, 1992; emergency amendment at 16 Ill. Reg. 11942, effective July 10, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14778, effective October 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19873, effective December 7, 1992; amended at 17 Ill. Reg. 131, effective December 21, 1992; amended at 17 Ill. Reg. 3296, effective March 1, 1993; amended at 17 Ill. Reg. 6649, effective April 21, 1993; amended at 17 Ill. Reg. 14643, effective August 30, 1993; emergency amendment at 17 Ill. Reg. 17323, effective October 1, 1993, for a maximum of 150 days; amended

at 18 Ill. Reg. 3450, effective February 28, 1994; emergency amendment at 18 Ill. Reg. 12853, effective August 2, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 14117, effective September 1, 1994; amended at 18 Ill. Reg. 17648, effective November 29, 1994; amended at 19 Ill. Reg. 1067, effective January 20, 1995; emergency amendment at 19 Ill. Reg. 3510, effective March 1, 1995, for a maximum of 150 days; emergency expired July 29, 1995; emergency amendment at 19 Ill. Reg. 6709, effective May 12, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 10060, effective June 29, 1995; emergency amendment at 19 Ill. Reg. 10752, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13009, effective September 5, 1995; amended at 19 Ill. Reg. 16630, effective November 28, 1995; amended at 20 Ill. Reg. 872, effective December 29, 1995; amended at 20 Ill. Reg. 7912, effective May 31, 1996; emergency amendment at 20 Ill. Reg. 9281, effective July 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 12510, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15722, effective November 27, 1996; amended at 20 Ill. Reg. 15722, effective November 27, 1996; amended at 21 Ill. Reg. 607, effective January 2, 1997; amended at 21 Ill. Reg. 8386, effective June 23, 1997; emergency amendment at 21 Ill. Reg. 9552, effective July 1, 1997,for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9822, effective July 2, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 10147, effective August 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13349, effective September 23, 1997; emergency amendment at 21 Ill. Reg. 13675, effective September 27, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 16161, effective November 26, 1997; amended at 22 Ill. Reg. 1408, effective December 29, 1997; amended at 22 Ill. Reg. 3083, effective January 26, 1998; amended at 22 Ill. Reg. 11514, effective June 22, 1998; emergency amendment at 22 Ill. Reg. 13070, effective July 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 15027, effective August 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16273, effective August 28, 1998; amendment at 22 Ill. Reg. 21490, effective November 25, 1998; amended at 23 Ill. Reg. 5784, effective April 30, 1999; amended at 23 Ill. Reg. 7115, effective June 1, 1999; amended at 23 Ill. Reg. 7908, effective June 30, 1999; emergency amendment at 23 Ill. Reg. 8213, effective July 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12772, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13621, effective November 1, 1999; amended at 24 Ill. Reg. 2400, effective February 1, 2000; amended at 24 Ill. Reg. 3845, effective February 25, 2000; emergency amendment at 24 Ill. Reg. 10386, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 11846, effective AUG 01 2000.

Section 148.120 Disproportionate Share Hospital (DSH) Adjustments

Disproportionate Share Hospital (DSH) adjustments for inpatient services provided prior to October 1, 1993, shall be determined and paid in accordance with the statutes and administrative rules governing the time period when the services were rendered. The Department shall make an annual determination of those hospitals qualified for adjustments under this Section effective October

1, 1993, and each October 1, thereafter unless otherwise noted.

a) Qualified Disproportionate Share Hospitals (DSH). For inpatient services provided on or after October 1, 1993, the Department shall make adjustment payments to hospitals which are deemed as disproportionate share by the Department. A hospital may qualify for a DSH adjustment in one of the following ways:

1) The hospital's Medicaid inpatient utilization rate, as defined in subsection (k)(5) of this Section, is at least one half standard deviation above the mean Medicaid utilization rate, as defined in subsection (k)(3) of this Section.

2) The hospital's low income utilization rate exceeds 25 per centum. For this alternative, payments for all patient services (not just inpatient) for Medicaid, Family and Children Assistance (formerly known as General Assistance)~~, Aid to the Medically Indigent (AMI)~~ and/or any local or State government-funded care, must be counted as a percentage of all net patient service revenue. To this percentage, the percentage of total inpatient charges attributable to inpatient charges for charity care (less payments for Family and Children Assistance ~~GA and AMI~~ inpatient hospital services, and/or any local or State government-funded care) must be added.

3) Illinois hospitals that, on July 1, 1991, had a Medicaid inpatient utilization rate, as defined in subsection (k)(5) of this Section, that was at least the mean Medicaid inpatient utilization rate, as defined in subsection (k)(3) of this Section, and which were located in a planning area with one-third or fewer excess beds as determined by the Illinois Health Facilities Planning Board (77 Ill. Adm. Code 1100), and that, as of June 30, 1992, were located in a federally designated Health Manpower Shortage Area (42 CFR 5, 1989).

4) Illinois hospitals that:

A) Have a Medicaid inpatient utilization rate, as defined in subsection (k)(5) of this Section, which is at least the mean Medicaid inpatient utilization rate, as defined in subsection (k)(3) of this Section, and

B) Have a Medicaid obstetrical inpatient utilization rate, as defined in subsection (k)(6) of this Section, that is at least one standard deviation above the mean Medicaid obstetrical inpatient utilization rate, as defined in subsection (k)(4) of this Section.

5) Any children's hospital, as defined in 89 Ill. Adm. Code 149.50(c)(3).

b) In addition, to be deemed a DSH hospital, a hospital must provide the Department, in writing, with the names of at least 2 obstetricians with staff privileges at the hospital who have agreed to provide obstetric services to individuals entitled to such services under a State Medicaid plan. In the case of a hospital located in a rural area (that is, an area outside of a Metropolitan Statistical Area, as

defined by the Executive Office of Management and Budget), the term "obstetrician" includes any physician with staff privileges at the hospital to perform nonemergency obstetric procedures. This requirement does not apply to a hospital in which the inpatients are predominantly individuals under 18 years of age; or does not offer nonemergency obstetric services as of December 22, 1987. Hospitals that do not offer nonemergency obstetrics to the general public, with the exception of those hospitals described in 89 Ill. Adm. Code 149.50(c)(1) through (c)(4), must submit a statement to that effect.

c) In making the determination described in subsections (a)(1) and (a)(4)(A) of this Section ~~above~~, the Department shall utilize:

1) The hospital's final audited cost report for the hospital's base fiscal year. Medicaid inpatient utilization rates, as defined in subsection (k)(5) of this Section, which have been derived from final audited cost reports, are not subject to the Review Procedure described in Section 148.310, with the exception of errors in calculation.

2) In the absence of a final audited cost report for the hospital's base fiscal year, the Department shall utilize the hospital's unaudited cost report for the hospital's base fiscal year. Due to the unaudited nature of this information, hospitals shall have the opportunity to submit a corrected cost report for the determination described in subsections (a)(1) and (a)(4)(A) of this Section ~~above~~. Submittal of a corrected cost report in support of subsections (a)(1) and (a)(4)(A) of this Section ~~above~~ must be received or post marked no later than the first day of July preceding the DSH determination year for which the hospital is requesting consideration of such corrected cost report for the determination of DSH qualification. Corrected cost reports which are not received in compliance with these time limitations will not be considered for the determination of the hospital's Medicaid inpatient utilization rate as described in subsection (k)(5) of this Section.

A) Hospital's Medicaid inpatient utilization rates, as defined in subsection (k)(5) of this Section, which have been derived from unaudited cost reports, are not subject to the Review Procedure described in Section 148.310, with the exception of errors in calculation. Pursuant to subsection (c)(2) of this Section ~~above~~, hospitals shall have the opportunity to submit corrected cost report information prior to the Department's final DSH determination.

B) In the event a subsequent final audited cost report reflects a Medicaid inpatient utilization rate, as described in subsection (k)(5) of this Section, which is lower than the Medicaid inpatient utilization rate derived from the unaudited cost report utilized for the DSH determination, the Department shall recalculate the Medicaid inpatient utilization rate based upon the final audited cost report,

and recoup any overpayments made if the percentage change in the DSH payment rate is greater than five percent.

3) Certain types of inpatient days of care provided to Title XIX recipients are not available from the cost report, i.e., Medicare/Medicaid crossover claims, out-of-state Title XIX Medicaid utilization levels, Medicaid Health Maintenance Organization (HMO) days, hospital residing long term care days, and Medicaid days for alcohol and substance abuse rehabilitative care under category of service 35. To obtain Medicaid utilization levels in these instances, the Department shall utilize:

A) Medicare/Medicaid Crossover Claims.

i) For DSH determination years on or after October 1, 1996, the Department will utilize the Department's paid claims data adjudicated through the last day of June preceding the DSH determination year for each hospital's base fiscal year. Provider logs as described in the following subsection (c)(3)(A)(ii) will not be used in the determination process for DSH determination years on or after October 1, 1996.

ii) For DSH determination years prior to October 1, 1996, hospitals may submit additional information to document Medicare/Medicaid crossover days that were not billed to the Department due to a determination that the Department had no liability for deductible or coinsurance amounts. That information must be submitted in log form. The log must include a patient account number or medical record number, patient name, Medicaid recipient identification number, Medicare identification number, date of admission, date of discharge, the number of covered days, and the total number of Medicare/Medicaid crossover days. That log must include all Medicare/Medicaid crossover days billed to the Department and all Medicare/Medicaid crossover days which were not billed to the Department for services provided during the hospital's base fiscal year. If a hospital does not submit a log of Medicare/Medicaid crossover days that meets the above requirements, the Department will utilize the Department's paid claims data adjudicated through the last day of June preceding the DSH determination year for the hospital's applicable base fiscal year.

B) Out-of-state Title XIX Utilization Levels. Hospital statements and verification reports from other states will be required to verify out-of-state Medicaid recipient utilization levels. The information submitted must include only those days of care provided to out-of-state Medicaid recipients during the hospital's base fiscal year.

C) HMO days. The Department will utilize the Department's HMO claims data available to the Department as of the last day of June preceding the DSH determination year for each hospital's base fiscal year to determine the number of inpatient days provided to recipients enrolled in an HMO.

D) Hospital Residing Long Term Care Days. The Department will utilize the Department's paid claims data adjudicated through the last day of June preceding the DSH determination year for each hospital's base fiscal year to determine the number of hospital residing long term care days provided to recipients.

E) Alcohol and Substance Abuse Days. The Department will utilize its paid claims data under category of service 35 available to the Department as of the last day of June preceding the DSH determination year for each hospital's base fiscal year to determine the number of inpatient days provided for alcohol and substance abuse rehabilitative care.

d) Hospitals may apply for DSH status under subsection (a)(2) of this Section by submitting an audited certified financial statement, for the hospital's base fiscal year, to the Department of Human Services. The statements must contain the following breakdown of information prior to submittal to the Department for consideration:

1) Total hospital net revenue for all patient services, both inpatient and outpatient, for the hospital's base fiscal year.

2) Total payments received directly from State and local governments for all patient services, both inpatient and outpatient, for the hospital's base fiscal year.

3) Total gross inpatient hospital charges for charity care (this must not include contractual allowances, bad debt or discounts, except contractual allowances and discounts for Family and Children Assistance, formerly known as General Assistance~~, and AMI patients~~), for the hospital's base fiscal year.

4) Total amount of the hospital's gross charges for inpatient hospital services for the hospital's base fiscal year.

e) With the exception of cost-reporting children's hospitals in contiguous states that provide 100 or more inpatient days of care to Illinois program participants, only those cost-reporting hospitals located in states contiguous to Illinois that qualify for DSH in the state in which they are located based upon the Federal definition of a DSH hospital, as defined in Section 1923(b)(1) of the Social Security Act, may qualify for DSH hospital adjustments under this Section. For purposes of determining the Medicaid inpatient utilization rate, as described in subsection (k)(5) of this Section and as required in Section 1923(b)(1) of the Social Security Act, out-of-state hospitals will be measured in relationship to one standard deviation above the mean Medicaid inpatient utilization rate in their state. Out-of-state hospitals that do not qualify by the Medicaid inpatient utilization

rate from their state may submit an audited certified financial statement as describe in subsection (d) of this Section **above**. Payments to out-of-state hospitals will be allocated using the same method as described in subsection (g) of this Section.

f) Time Limitation Requirements for Additional Information.

1) The information required in subsections (a)(2), (c), (d) and (e) of this Section must be received or post marked no later than the first day of July preceding the DSH determination year for which the hospital is requesting consideration of such information for the determination of DSH qualification. Information required in subsections (a)(2), (c), (d) and (e) of this Section which is not received or post marked in compliance with these limitations will not be considered for the determination of those hospitals qualified for DSH adjustments.

2) The information required in subsection (b) of this Section must be received or post marked within 30 calendar days after receipt of notification from the Department that the information must be submitted. Information required in this Section which is not received in compliance with these limitations will not be considered for the determination of those hospitals qualified for DSH adjustments.

g) Inpatient Payment Adjustments to DSH Hospitals. The adjustment payments required by subsection (a) of this Section **above** shall be calculated annually as follows:

1) Five Million Dollar Fund Adjustment for hospitals defined in Section 148.25(b)(1).

A) Hospitals qualifying as DSH hospitals under subsection (a)(1) of this Section that have a Medicaid inpatient utilization rate, as described in subsection (k)(5) of this Section, which is at least one standard deviation above the mean Medicaid inpatient utilization rate, as described in subsection (k)(3) of this Section, and hospitals qualifying as DSH hospitals under subsection (a)(2) of this Section will receive an add-on payment to their inpatient rate.

B) The distribution method for the add-on payment described in subsection (g)(1)(A) of this Section **above** is based upon a fund of $5 million. All hospitals qualifying under subsection (g)(1)(A) of this Section **above** will receive a $5 per day add-on to their current rate. The total cost of this adjustment is calculated by multiplying each hospital's most recent completed fiscal year Medicaid inpatient utilization data (adjusted based upon historical utilization and projected increases in utilization) by $5. The total dollar amount of this calculation is then subtracted from the $5 million fund.

C) The remaining fund balance is then distributed to the hospitals that qualify under subsection (a)(1) of this Section **above** that have a Medicaid inpatient utilization

rate, as described in subsection (k)(5) of this Section, which is at least one standard deviation above the mean Medicaid inpatient utilization rate, above in proportion to the percentage by which the hospital's Medicaid inpatient utilization rate exceeds one standard deviation above the State's Medicaid inpatient utilization rate, as described in subsection (k)(3) of this Section. This is done by finding the ratio of each hospital's percent Medicaid utilization to the State's mean plus one standard deviation percent Medicaid value. These ratios are then summed and each hospital's proportion of the total is calculated. These proportional values are then multiplied by each hospital's most recent completed fiscal year Medicaid inpatient utilization data (adjusted based upon historical utilization and projected increases in utilization). These weighted values are summed and each hospital's proportion of the summed weighted value is calculated. Each individual hospital's proportional value is then multiplied against the $5 million pool of money available after the $5 per day base add-on has been subtracted.

D) The total dollar amount calculated for each qualifying hospital under subsection (g)(1)(C) of this Section **above**, plus the initial $5 per day add-on amount calculated for each qualifying hospital under subsection (g)(1)(B) of this Section **above**, is then divided by the Medicaid inpatient utilization data (adjusted based upon historical utilization and projected increases in utilization) to arrive at per day add-on value. Hospitals qualifying under subsection (a)(2) of this Section, will receive the minimum adjustment of $5 per inpatient day. The adjustments calculated under this subsection are subject to the limitations described in subsection (j) of this Section.

2) Medicaid Percentage Adjustment for hospitals defined in Section 148.25(b)(1), excluding hospitals defined in Section 148.25(b)(1)(A).

A) In addition to the adjustment methodology described in subsection (g)(1) of this Section **above**, all DSH hospitals described in subsections (a)(1), (2), (3), (4), and (5) of this Section shall receive a payment adjustment which shall be calculated annually as follows:

B) The payment adjustment shall be calculated based upon the hospital's Medicaid inpatient utilization rate, as defined in subsection (k)(5) of this Section, and subject to subsections (h) and (i) below, as follows:

i) Hospitals with a Medicaid inpatient utilization rate below the mean Medicaid inpatient utilization rate shall receive a payment adjustment of $25;

ii) Hospitals with a Medicaid inpatient utilization rate that is equal to or greater than the mean Medicaid inpatient utilization rate but less than one standard deviation above the mean Medicaid inpatient utilization rate shall receive a payment adjustment of $25 plus $1 for each one percent that the hospital's Medicaid inpatient utilization rate exceeds the mean Medicaid inpatient utilization rate;

iii) Hospitals with a Medicaid inpatient utilization rate that is equal to or greater than one standard deviation above the mean Medicaid inpatient utilization rate but less than 1.5 standard deviations above the mean Medicaid inpatient utilization rate shall receive a payment adjustment of $40 plus $7 for each one percent that the hospital's Medicaid inpatient utilization rate exceeds one standard deviation above the mean Medicaid inpatient utilization rate; and

iv) Hospitals with a Medicaid inpatient utilization rate that is equal to or greater than 1.5 standard deviations above the mean Medicaid inpatient utilization rate shall receive a payment adjustment of $90 plus $2 for each one percent that the hospital's Medicaid inpatient utilization rate exceeds 1.5 standard deviations above the mean Medicaid inpatient utilization rate.

C) For a hospital organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B), the amount calculated pursuant to subsection (g)(2)(B) of this Section **above** shall be increased by $60 per day.

D) The Medicaid percentage adjustment payment, calculated in accordance with this subsection (g)(2), to a hospital, other than a hospital and/or hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B), shall not exceed $155 per day for a children's hospital, as described in subsection (a)(5) of this Section, and shall not exceed $215 per day for all other hospitals.

E) The amount calculated pursuant to subsections (g)(2)(B) through (g)(2)(D) of this Section **above** shall be adjusted on October 1, 1993, and annually thereafter by a percentage equal to the lesser of:

i) The increase in the national hospital market basket price proxies (DRI) hospital cost index for the most recent 12 month period for which data are available; or

ii) The percentage increase in the statewide average hospital payment rate, as described in subsection (k)(8) of this Section, over the previous year's

statewide average hospital payment rate.

F) The amount calculated pursuant to subsection (g)(1) of this Section ~~above~~ for hospitals described in Section 148.25(b)(1)(A) shall be no less than the DSH rates in effect on June 1, 1992, except that this minimum shall be adjusted on the first day of July of each year by the annual percentage change in the per diem cost of inpatient hospital services as reported on the two most recent annual Medicaid cost reports. The per diem cost of inpatient hospital services is calculated by dividing the total allowable Medicaid costs by the total allowable Medicaid days.

G) The amount calculated pursuant to subsections (g)(1) and (g)(2)(B) through (g)(2)(E) of this Section ~~above~~, as adjusted pursuant to subsections (h) and (i) of this Section ~~below~~, shall be the inpatient payment adjustment in dollars for the applicable DSH determination year, subject to the limitations described in subsections (g)(2)(D) and (j) of this Section, and the adjustment described in subsection (g)(2)(F) of this Section ~~above~~. The adjustments calculated under subsections (g)(1) and (g)(2)(B) through (g)(2)(F) of this Section shall be paid on a per diem basis and shall be applied to each covered day of care provided.

3) Department of Human Services (DHS) State-Operated Facility Adjustment for hospitals defined in Section 148.25(b)(6). Department of Human Services State-operated facilities qualifying under subsection (a)(2) of this Section shall receive an adjustment for inpatient services provided on or after March 1, 1995. Effective October 1, 2000, the ~~The--amount--of--that~~ adjustment payment shall be calculated as follows:

A) The amount of the adjustment is based on a State DSH Pool. The State DSH Pool ~~pool~~ amount shall be the lesser of the federal DSH allotment for mental health facilities as determined in section 1923(h) of the Social Security Act, minus the estimated DSH payments to such facilities that are not operated by the State; or the result of ~~calculated-by~~ subtracting the estimated DSH payment adjustments made under subsections ~~subsection~~ (g)(1) through (g)(2) of this Section ~~above~~ and Section 148.170(f)(2) from the aggregate DSH payment allotment as provided for in Section 1923(f) of the Social Security Act ~~adjustment--set--by--the--Health--Care Financing--Administration--(HCFA)--in-accordance-with-Public Law-102-234~~.

B) The State DSH Pool amount is then allocated to hospitals defined in Section 148.25(b)(6) that qualify for DSH adjustments by multiplying the State DSH Pool amount by each hospital's ratio of uncompensated care costs, from the most recent final cost report, ~~Medicaid-inpatient-utilization (adjusted-based-upon-historical--utilization--and--projected~~

~~increases--in--utilization)~~ to the sum of all qualifying hospitals' uncompensated care costs ~~Medicaid---inpatient utilization~~.

C) The adjustment calculated in (g)(3)(B) of this Section ~~above~~ shall meet the limitation described in subsection (j)(4) of this Section ~~below~~.

D) The adjustment calculated pursuant to subsection (g)(3)(B) of this Section ~~above~~, for each hospital defined in Section 148.25(b)(6) that qualifies for DSH adjustments, is then divided by four ~~the--Medicaid--inpatient-utilization-data (adjusted-based-upon-historical--utilization--and--projected increases--in--utilization)~~ to arrive at a quarterly ~~per-day~~ adjustment. This amount is subject to the limitations described in subsection (j) of this Section. The adjustment described in this subsection (g)(3)(D) shall be paid on a quarterly ~~per-diem~~ basis ~~and--shall--be--applied--to--each Medicaid-covered-day-of-care-provided~~.

h) Inpatient Adjustor for Children's Hospitals. For a children's hospital, as defined in subsection (a)(5) of this Section, the payment adjustment calculated under subsection (g)(2) of this Section ~~above~~ shall be multiplied by 2.0.

i) Inpatient Adjustor for Hospitals Organized Under the University of Illinois Hospital Act. For a hospital and/or hospitals organized under the University of Illinois Hospital Act, as defined in Section 148.25(b)(1)(B), the payment adjustment calculated under subsection (g)(2) of this Section ~~above~~ shall be multiplied by 1.50.

j) DSH Adjustment Limitations.

1) Hospitals that qualify for DSH adjustments under this Section shall not be eligible for the total DSH adjustment if, during the DSH determination year, the hospital discontinues the provision of non-emergency obstetrical care (the provisions of this subsection shall not apply to those hospitals described in 89 Ill. Adm. Code 149.50(c)(1) through (c)(4) or those hospitals that have not offered nonemergency obstetric services as of December 22, 1987). In this instance, the adjustments calculated under subsections (g)(1) and (g)(2) shall cease effective on the date that the hospital discontinued the provision of such non-emergency obstetrical care.

2) Inpatient Payment Adjustments based upon DSH Determination Reviews. Appeals based upon a hospital's ineligibility for DSH payment adjustments, or their payment adjustment amounts, in accordance with Section 148.310(b), which result in a change in a hospital's eligibility for DSH payment adjustments or a change in a hospital's payment adjustment amounts, shall not affect the DSH status of any other hospital or the payment adjustment amount of any other hospital that has received notification from the Department of their eligibility for DSH payment adjustments based upon the requirements of this Section.

3) DSH Payment Adjustment. In accordance with Public Law 102-234, if the aggregate DSH payment adjustments calculated under this Section do not meet the State's final DSH Allotment as determined by the Health Care Financing Administration (HCFA), DSH payment adjustments calculated under this Section shall be adjusted to meet the State DSH Allotment. This adjustment shall first be applied to DSH payments made under subsection (g)(3) of this Section ~~above~~. If further adjustments are necessary, then DSH payments made under subsection (g)(2) of this Section ~~above~~ shall be adjusted, with the DSH payments under subsection (g)(1) of this Section being adjusted last.

4) Omnibus Budget Reconciliation Act of 1993 (OBRA '93) Adjustments. In accordance with Public Law 103-66, adjustments to individual hospitals' disproportionate share payments shall be made if the sum of estimated Medicaid payments (inpatient, outpatient, and disproportionate share) to a hospital exceed the costs of providing services to Medicaid clients and persons without insurance. Federal upper payment limit requirements (42 CFR 447.272) shall be considered when calculating the OBRA '93 adjustments. The adjustments shall reduce disproportionate share spending until the costs and spending (described in this subsection (j)(4)) are equal or until the disproportionate share payments are reduced to zero. In this calculation, persons without insurance costs do not include contractual allowances. Hospitals qualifying for DSH payment adjustments must submit the information required in Section 148.150.

5) Medicaid Inpatient Utilization Rate Limit. Hospitals that qualify for DSH payment adjustments under this Section shall not be eligible for DSH payment adjustments if the hospital's Medicaid inpatient utilization rate, as defined in subsection (k)(5) of this Section ~~below~~, is less than one percent.

k) Inpatient Payment Adjustment Definitions. The definitions of terms used with reference to calculation of the inpatient payment adjustments are as follows:

1) "Base fiscal year" means, for example, the hospital's fiscal year ending in 1991 for the October 1, 1993 DSH determination year, the hospital's fiscal year ending in 1992 for the October 1, 1994, DSH determination year, etc.

2) "DSH determination year" means the 12 month period beginning on October 1 of the year and ending September 30 of the following year.

3) "Mean Medicaid inpatient utilization rate" means a fraction, the numerator of which is the total number of inpatient days provided in a given 12-month period by all Medicaid-participating Illinois hospitals to patients who, for such days, were eligible for Medicaid under Title XIX of the Federal Social Security Act (42 USC 1396a et seq.), and the denominator of which is the total number of inpatient days provided by those same hospitals. Title

XIX specifically excludes days of care provided to Family and Children Assistance (formerly known as General Assistance) ~~and Aid to the Medically Indigent (AMI) days~~ but does include the types of days described in subsection (c)(3) of this Section. In this subsection (k)(3), the term "inpatient day" includes each day in which an individual (including a newborn) is an inpatient in the hospital whether or not the individual is in a specialized ward and whether or not the individual remains in the hospital for lack of suitable placement elsewhere.

4) "Mean Medicaid obstetrical inpatient utilization rate" means a fraction, the numerator of which is the total Medicaid (Title XIX) obstetrical inpatient days, as defined in subsection (k)(7) of this Section ~~below~~, provided by all Medicaid-participating Illinois hospitals providing obstetrical services to patients who, for such days, were eligible for Medicaid under Title XIX of the Federal Social Security Act (42 USC 1396a et seq.), and the denominator of which is the total Medicaid (Title XIX) inpatient days, as defined in subsection (k)(9) of this Section ~~below~~, for all such hospitals. That information shall be derived from claims for applicable services provided in the Medicaid obstetrical inpatient utilization rate base year which were subsequently adjudicated by the Department through the last day of June preceding the DSH determination year and contained within the Department's paid claims data base.

5) "Medicaid inpatient utilization rate" means a fraction, the numerator of which is the number of a hospital's inpatient days provided in a given 12-month period to patients who, for such days, were eligible for Medicaid under Title XIX of the federal Social Security Act (42 USC 1396a et seq.) and the denominator of which is the total number of the hospital's inpatient days in that same period. Title XIX specifically excludes days of care provided to Family and Children Assistance (formerly known as General Assistance) ~~and Aid to the Medically Indigent (AMI) days~~ but does include the types of days described in subsection (c)(3) of this Section. In this subsection (k)(5), the term "inpatient day" includes each day in which an individual (including a newborn) is an inpatient in the hospital whether or not the individual is in a specialized ward and whether or not the individual remains in the hospital for lack of suitable placement elsewhere.

6) "Medicaid obstetrical inpatient utilization rate" means a fraction, the numerator of which is the Medicaid (Title XIX) obstetrical inpatient days, as defined in subsection (k)(7) of this Section ~~below~~, provided by a Medicaid-partcipating Illinois hospital providing obstetrical services to patients who, for such days, were eligible for Medicaid under Title XIX of the federal Social Security Act (42 USC 1396a et seq.), and the denominator of which is the total Medicaid (Title XIX) inpatient days, as

defined in subsection (k)(9) of this Section ~~below~~ provided by such hospital. This information shall be derived from claims for applicable services provided in the Medicaid obstetrical inpatient utilization rate base year which were subsequently adjudicated by the Department through the last day of June preceding the DSH determination year and contained within the Department's paid claims data base.

7) "Medicaid (Title XIX) obstetrical inpatient days" means hospital inpatient days which were subsequently adjudicated by the Department through the last day of June preceding the DSH determination year and contained within the Department's paid claims data base, for recipients of medical assistance under Title XIX of Social Security Act, with an ICD-9-CM principal diagnosis code of 640.0 through 648.9 with a 5th digit of 1 or 2; 650; 651.0 through 659.9 with a 5th digit of 1, 2, 3, or 4; 660.0 through 669.9 with a 5th digit of 1, 2, 3, or 4; 670.0 through 676.9 with a 5th digit of 1 or 2; or V27 through V27.9; or V30 through V39.9; or any ICD-9-CM principal diagnosis code that is accompanied with a surgery procedure code between 72 and 75.99; and specifically excludes Medicare/Medicaid crossover claims.

8) "Statewide average hospital payment rate" means the hospital's alternative reimbursement rate, as defined in Section 148.270(a).

9) "Total Medicaid (Title XIX) inpatient days", as referred to in subsections (k)(4) and (k)(6) of this Section ~~above~~, means hospital inpatient days, excluding days for normal newborns, which were subsequently adjudicated by the Department through the last day of June preceding the DSH determination year and contained within the Department's paid claims data base, for recipients of medical assistance under Title XIX of the Social Security Act, and specifically excludes Medicare/Medicaid crossover claims.

10) "Medicaid obstetrical inpatient utilization rate base year" means, for example, fiscal year 1992 for the October 1, 1993, DSH determination year; fiscal year 1993 for the October 1, 1994, DSH determination year, etc.

(Source: Amended at 24 Ill. Reg. ~~11846~~, effective AUG 01 2000)

Section 148.310 Review Procedure

a) Inpatient Rate Reviews

1) Hospitals shall be notified of their inpatient rate for the rate year and shall have an opportunity to request a review of the rate for errors in calculation. Such a request must be submitted ~~received~~ in writing to ~~by~~ the Department and must be received or post marked within 30 days after the date of the Department's notice to the hospital of its ~~their~~ rates. The Department shall

notify the hospital of the results of the review within 30 days after receipt of the hospital's request for review.

2) Hospitals reimbursed in accordance with Sections 148.250 through 148.300 and 89 Ill. Adm. Code 149 with respect to per diem add-ons for capital may request that an adjustment be made to their base year costs to reflect significant changes in costs which have been mandated in order to meet State, federal or local health and safety standards, and which have occurred since the hospital's filing of the base year cost report. The allowable Medicare/Medicaid costs must be identified from the most recent audited cost report available. These costs must be significant, i.e., on a per unit basis, they must constitute one percent or more of the total allowable Medicaid/Medicare unit costs for the same time period. Appeals for base year cost adjustments must be submitted ~~received~~, in writing to ~~, by~~ the Department and must be received or post marked within 30 days after the date of the Department's notice to the hospital of its ~~their~~ rates. Such request shall include a clear explanation of the cost change and documentation of the desired correction. The Department shall notify the hospital of the results of the review within 30 days after receipt of the hospital's request for review.

b) DSH Determination Reviews

1) Hospitals shall be notified of their qualification for DSH payment adjustments and shall have an opportunity to request a review of the DSH add-on for errors in calculation. Such a request must be submitted ~~received~~ in writing to ~~by~~ the Department and must be received or post marked within 30 days after the date of the Department's notice to the hospital of its disproportionate share qualification and add-on calculations. Such request shall include a clear explanation of the error and documentation of the desired correction. The Department shall notify the hospital of the results of the review within 30 days after receipt of the hospital's request for review.

2) DSH determination reviews shall be limited to the following:

A) DSH Determination Criteria. The criteria for DSH determination shall be in accordance with Section 148.120. Review shall be limited to verification that the Department utilized criteria in accordance with State regulations.

B) Medicaid Inpatient Utilization Rates. Medicaid inpatient utilization rates shall be calculated pursuant to Section 1923 of the Social Security Act and as defined in Section 148.120(k)(5). Review shall be limited to verification that Medicaid inpatient utilization rates were calculated in accordance with federal and State regulations.

C) Low Income Utilization Rates. Low Income utilization rates shall be calculated in accordance with Section 1923 of the Social Security Act and Section 148.120(a)(2) and (d). Review shall be limited to verification that low income

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utilization rates were calculated in accordance with federal and State regulations.

D) Federally Designated Health Manpower Shortage Areas (HMSAs). Illinois hospitals located in federally designated HMSAs shall be identified in accordance with 42 CFR 5, (1989), and Section 148.120(a)(3) based upon the methodologies utilized by, and the most current information available to the Department from the Department of Health and Human Services as of June 30, 1992. Review shall be limited to hospitals in locations that have failed to obtain designation as federally designated HMSAs only when such a request for review is accompanied by documentation from the Department of Health and Human Services substantiating that the hospital was located in a federally designated HMSA as of June 30, 1992.

E) Excess Beds. Excess bed information shall be determined in accordance with Public Act 86-268 (Code Section 148.120(a)(3) and 77 Ill. Adm. Code 1100) based upon the methodologies utilized by, and the most current information available to, the Illinois Health Facilities Planning Board as of July 1, 1991. Reviews shall be limited to requests accompanied by documentation from the Illinois Health Facilities Planning Board substantiating that the information supplied to and utilized by the Department was incorrect.

F) Medicaid Obstetrical Inpatient Utilization Rates. Medicaid obstetrical inpatient utilization rates shall be calculated in accordance with Section 148.120(a)(4), (k)(4), (k)(6) and (k)(7). Review shall be limited to verification that Medicaid obstetrical inpatient utilization rates were calculated in accordance with State regulations.

c) Outlier Adjustment Reviews
The Department shall make outlier adjustments to payment amounts in accordance with 89 Ill. Adm. Code 149.105 or Section 148.130, whichever is applicable. Hospitals shall be notified of the specific information which shall be utilized in the determination of those services qualified for an outlier adjustment and shall have an opportunity to request a review of such specific information for errors in calculation only. Such a request must be submitted ~~received~~ in writing to ~~by~~ the Department and must be received or post marked within 30 days after the date of the Department's notice to the hospital of the specific information which shall be utilized in the determination of those services qualified for an outlier adjustment. Such request shall include a clear explanation of the error and documentation of the desired correction. The Department shall notify the hospital of the results of the review within 30 days after receipt of the hospital's request for review.

d) Cost Report Reviews

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1) Cost reports are required from:
 A) All enrolled hospitals within the State of Illinois;
 B) All out-of-state hospitals providing 100 inpatient days of service per hospital fiscal year, to persons covered by the Illinois Medical Assistance Program; and
 C) All hospitals not located in Illinois that elect to be reimbursed under the methodology described in 89 Ill. Adm. Code 149 (the DRG PPS).

2) The completed cost statement with a copy of the hospital's Medicare cost report and audited financial statement must be submitted annually within 90 days of the close of the hospital's fiscal year. A one-time 30-day extension may be requested. Such a request for an extension shall be in writing and shall be received by the Department's Office of Health Finance prior to the end of the 90-day filing period. The Office of Health Finance shall audit the information shown on the Hospital Statement of Reimbursable Cost and Support Schedules. The audit shall be made in accordance with generally accepted auditing standards and shall include tests of the accounting and statistical records and applicable auditing procedures. Hospitals shall be notified of the results of the final audited cost report which may contain adjustments and revisions which may have resulted from the audited Medicare Cost Report. Hospitals shall have the opportunity to request a review of the final audited cost report. Such a request must be received in writing by the Department within 45 days after the date of the Department's notice to the hospital of the results of the finalized audit. Such request shall include all items of documentation and analysis which support the request for review. No additional data shall be accepted after the 45 day period. The Department shall notify the hospital of the results of the review within 30 days after receipt of the hospital's request for review.

e) Trauma Center Adjustment Reviews

1) The Department shall make trauma care adjustments in accordance with Section 148.290(c). Hospitals shall have the right to appeal the trauma center adjustment calculations if it is believed that a technical error has been made in the calculation.

2) Trauma level designation is obtained from the Illinois Department of Public Health as of the first day of July preceding the trauma center adjustment rate period. Review shall be limited to requests accompanied by documentation from the Illinois Department of Public Health, or the licensing agency in the state in which the hospital is located, substantiating that the information supplied to and utilized by the Department was incorrect.

3) Appeals under this subsection (e) must be submitted in writing to the Department and must be received or post marked within 30 days

after the date of the Department's notice to the hospital of its qualification for trauma center adjustments and payment amounts. Such a request shall include a clear explanation of the reason for the appeal and documentation of the desired correction. The Department shall notify the hospital of the results of the review within 30 days after receipt of the hospital's request for review.

f) Medicaid High Volume Adjustment Reviews
The Department shall make Medicaid high volume adjustments in accordance with Section 148.290(d). Review shall be limited to verification that the Medicaid inpatient days were calculated in accordance with State regulations. The appeal must be submitted in writing to the Department and must be received or post marked within 30 days after the date of the Department's notice to the hospital of its qualification for Medicaid high volume adjustments and payment adjustment amounts. Such a request shall include a clear explanation of the reason for the appeal and documentation of the desired correction. The Department shall notify the hospital of the results of the review within 30 days after receipt of the hospital's request for review.

g) Sole Community Hospital Designation Reviews
The Department shall make sole community hospital designations in accordance with 89 Ill. Adm. Code 149.125(b). Hospitals shall have the right to appeal the designation if it believed that a technical error has been made in the determination. The appeal must be made submitted in writing to the Department and must be received or post marked within 30 days after the date of the Department's notification of the designation. Such a request shall include a clear explanation of the reason for the appeal and documentation of the desired correction. The Department shall notify the hospital of the results of the review no later than 30 days after receipt of the hospital's request for review.

h) Geographic Designation Reviews
1) The Department shall make rural hospital designation in accordance with Section 148.25(g)(3). Hospitals shall have the right to appeal the designation if it is believed that a technical error has been made in the determination. The appeal must be submitted in writing to the Department and must be received or post marked within 30 days after the date of the Department's notification of the designation. Such a request shall include a clear explanation of the reason for the appeal and documentation of the desired correction. The Department shall notify the hospital of the results of the review no later than 30 days after receipt of the hospital's request for review.
2) The Department shall make urban hospital designations in accordance with Section 148.25(g)(4). Hospitals shall have the right to appeal the designation if it is believed that a technical error has been made in the determination. The appeal

must be submitted in writing to the Department and must be received or post marked within 30 days after the date of the Department's notification of the designation. Such a request shall include a clear explanation of the reason for the appeal and documentation of the desired correction. The Department shall notify the hospital of the results of the review no later than 30 days after receipt of the hospital's request for review.

i) Critical Hospital Adjustment Payment (CHAP) Reviews
1) The Department shall make CHAP payments in accordance with Section 148.295. Hospitals shall be notified in writing of the results of the CHAP determination and calculation, and shall have the right to appeal the CHAP calculation or their ineligibility for the CHAP if it is believed that a technical error has been made in the calculation. The appeal must be submitted in writing to the Department and must be received or post marked within 30 days after the date of the Department's notice to the hospital of its qualification for CHAP and payment adjustment amounts, or a letter of notification that the hospital does not qualify for the CHAP. Such a request shall include a clear explanation of the reason for the appeal and documentation of the desired correction. The Department shall notify the hospital of the results of the review within 30 days after receipt of the hospital's request for review.
2) CHAP determination reviews shall be limited to the following:
A) Federally Designated Health Professional Shortage Areas (HPSAs). Illinois hospitals located in federally designated HPSAs shall be identified in accordance with 42 CFR 5, and Section 148.295(a)(3)(B) and (b)(3) based upon the methodologies utilized by, and the most current information available to, the Department from the Department of Health and Human Services as of the last day of June preceding the CHAP rate period. Review shall be limited to hospitals in locations that have failed to obtain designation as federally designated HPSAs only when such a request for review is accompanied by documentation from the Department of Health and Human Services substantiating that the hospital was located in a federally designated HPSA as of the last day of June preceding the CHAP rate period.
B) Trauma level designation. Trauma level designation is obtained from the Illinois Department of Public Health as of the last day of June preceding the CHAP rate period. Review shall be limited to requests accompanied by documentation from the Illinois Department of Public Health, substantiating that the information supplied to and utilized by the Department was incorrect.
C) Accreditation of Rehabilitation Facilities. Accreditation of rehabilitation facilities shall be obtained from the Commission on Accreditation of Rehabilitation Facilities as

of the last day of June preceding the CHAP rate period. Review shall be limited to requests accompanied by documentation from the Commission, substantiating that the information supplied to and utilized by the Department was incorrect.

D) Medicaid Inpatient Utilization Rates. Medicaid inpatient utilization rates shall be calculated pursuant to Section 1923 of the Social Security Act and as defined in Section 148.120(k)(5). Review shall be limited to verification that Medicaid inpatient utilization rates were calculated in accordance with federal and State regulations.

E) Perinatal level designation. Perinatal level designation is obtained from the Illinois Department of Public Health as of the last day of June preceding the CHAP rate period. Review shall be limited to requests accompanied by documentation from the Illinois Department of Public Health, substantiating that the information supplied to and utilized by the Department was incorrect.

F) Disproportionate share eligibility. Disproportionate share eligibility shall be determined pursuant to Section 148.120. Review shall be limited to verification that the Department utilized criteria in accordance with State regulations.

G) Occupancy ratio. The occupancy ratio shall be obtained from the Illinois Department of Public Health's published report entitled "Bed Count, Average Length of Stay, Average Daily Census and Percent Occupancy for Non-Federal Hospitals in Illinois" as of the last day of June preceding the CHAP rate period. Review shall be limited to requests accompanied by documentation from the Illinois Department of Public Health, substantiating that the information supplied to and used by the Department was incorrect.

H) Graduate Medical Education Programs. Graduate Medical Education program information shall be obtained from the most recently published report of the American Accreditation Council for Graduate Medical Education, the American Osteopathic Association Division of Post-doctoral Training, or the American Dental Association Joint Commission on Dental Accreditation as of the last day of June preceding the CHAP rate period. Review shall be limited to requests accompanied by documentation from the above, substantiating that the information supplied to and utilized by the Department was incorrect.

j) Supplemental Critical Hospital Adjustment Payment (SCHAP) Reviews. The Department shall make SCHAP payments in accordance with Section 148.296. Hospitals shall be notified in writing of the results of the SCHAP determination and calculation, and shall have the right to appeal the SCHAP calculation or their ineligibility for SCHAP payments if it is believed that a technical error has been made in the

calculation. The appeal must be submitted in writing to the Department and must be received or post marked within 30 days after the date of the Department's notice to the hospital of its qualification for SCHAP and payment adjustment amounts, or a letter of notification that the hospital does not qualify for SCHAP payments. Such a request must include a clear explanation of the reason for the appeal and documentation that supports the desired correction. The Department shall notify the hospital of the results of the review within 30 days after receipt of the hospital's request for review.

k) Pediatric Outpatient Adjustment Payments. The Department shall make Pediatric Outpatient Adjustment payments in accordance with Section 148.297. Hospitals shall be notified in writing of the results of the determination and calculation, and shall have the right to appeal the calculation or their ineligibility for payments under Section 148.297 if it is believed that a technical error has been made in the calculation. The appeal must be submitted in writing to the Department and must be received or post marked within 30 days after the date of the Department's notice to the hospital of its qualification under Section 148.297 and payment adjustment amounts, or a letter of notification that the hospital does not qualify for such payments. Such a request must include a clear explanation of the reason for the appeal and documentation that supports the desired correction. The Department shall notify the hospital of the results of the review within 30 days after receipt of the hospital's request for review.

l) For purposes of this Section, the term "post marked" means the date of processing by the United States Post Office or any independent carrier service.

(Source: Amended at 24 Ill. Reg. 11846, effective AUG 01 2000)

Section 148.340 Subacute Alcoholism and Substance Abuse Treatment Services

a) Payment may be made for subacute alcoholism and other substance abuse treatment services provided by:

1) A provider licensed by the Illinois Department of Human Services ~~Alcoholism and Substance Abuse~~ under the provisions of 77 Ill. Adm. Code 2060 ~~2050~~.

2) A provider licensed by the Illinois Department of Public Health under the provisions of 77 Ill. Adm. Code 250.2830(b) and (c).

3) Psychiatrists for ancillary diagnostic services.

b) Providers must be certified for participation by the Department of Human Services ~~Alcoholism and Substance Abuse~~ in accordance with 77 Ill. Adm. Code 2090.

c) Certified providers shall comply with, and provide all services in accordance with, all provisions of 77 Ill. Adm. Code 2090.

d) Providers shall enroll for participation in the Medical Assistance

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Program as provided in 89 Ill. Adm. Code 140.11.

(Source: Amended at 24 Ill. Reg. 11846, effective AUG 01 2000)

Section 148.350 Definitions ~~Definitions~~ (Repealed)

~~Words which are defined in 77 Ill. Adm. Code 2090.20 have the same meaning when used in Sections 148.340 through 148.390.~~

(Source: Repealed at 24 Ill. Reg. 11846, effective AUG 01 2000)

Section 148.360 Types of Subacute Alcoholism and Substance Abuse Treatment Services (Repealed)

~~The specific types of subacute services for which payment can be made are:~~

~~a) Outpatient treatment - the provision of face to face diagnostic and individual, group, or family treatment on a scheduled or non scheduled basis to an individual who in the clinical judgment of a qualified treatment professional is experiencing a problem with alcohol and/or drugs (for example, family, social, financial, employment, educational, and/or legal). These services shall be delivered in accordance with an individual treatment plan recommended by a physician. Services shall include, but not be limited to assessment, evaluation, diagnosis, and subsequent individual, group, or family counseling, case coordination, aftercare, and follow up. Outpatient services may be provided in a recipient's place of residence or other off site location when required because of illness, disability, or infirmity and documented in the recipient's treatment plan.~~

~~b) Intensive Outpatient Treatment Services~~

~~1) The provision of diagnostic and individual or group treatment on a scheduled only basis to an individual who in the clinical judgment of a qualified treatment professional is experiencing a problem with alcohol and/or drugs (for example, family, social, financial, employment, educational, and/or legal). These services shall be delivered in accordance with an individual's treatment plan recommended by a physician.~~

~~2) Intensive outpatient treatment is a structured program offered a minimum of four days or evenings per week, includes a minimum of 15 hours of treatment services per recipient per week, and must occur in a licensed subacute setting (see 77 Ill. Adm. Code 2058). Treatment services shall include, but are not limited to assessment, evaluation, diagnosis, and subsequent individual, group or family counseling, education, case coordination, aftercare, and follow up. This programmatic scope is required unless a specific waiver has been granted by the licensing authority.~~

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~~c) Detoxification the provision of immediate physiological stabilization, diagnosis, and short term treatment (for example, up to five days) on a non scheduled basis to an individual who is, in the clinical judgment of the qualified treatment professional in accordance with 77 Ill. Adm. Code 2058, intoxicated or experiencing withdrawal from the ingestion of alcohol or other drugs, but whose physical and emotional condition does not require the intensity of an acute care setting. Services are provided in accordance with an individual treatment plan recommended by a physician when rendered in a licensed subacute hospital setting (see 89 Ill. Adm. Code 250), or under the direction of a physician to individuals under age 21 by a psychiatric facility or an inpatient program in a psychiatric facility, either of which is accredited by the Joint Commission on Accreditation of Health Care Organizations, and is also licensed as a subacute residential setting (see 77 Ill. Adm. Code 2058). Services must include, but are not limited to assessment, evaluation, diagnosis, determination of need for more specialized medical care, rest under close observation, individual counseling, case coordination and subsequent referral, room and board, meals, and staff supervision.~~

~~d) Ancillary diagnostic services Psychiatric evaluations performed by a psychiatrist to determine whether an individual's primary condition is attributable to the effects of an ingested substance or to a diagnosed psychiatric or psychological disorder. Ancillary services may be provided in a licensed treatment facility (see 77 Ill. Adm. Code 2058) or in the psychiatrist's office.~~

~~e) Residential Rehabilitation The provision of diagnostic services and individual or group treatment on a scheduled only residential basis in accordance with an individual treatment plan recommended by a physician in a licensed subacute hospital setting (see 89 Ill. Adm. Code 250), or under the direction of a physician to individuals under age 21 by a psychiatric facility or an inpatient program in a psychiatric facility, either of which is accredited by the Joint Commission on Accreditation of Health Care Organizations, and is also licensed as a subacute residential setting (see 77 Ill. Adm. Code 2058). This service is designed to reduce or eliminate, through a controlled milieu, an individual's intake of alcohol and/or other substances. Services must include, but are not limited to assessment, evaluation, diagnosis, and subsequent individual, group, or family counseling, education, case coordination, aftercare and followup. Residential rehabilitation is a structured residential program offered seven days per week and includes a minimum of 25 hours of treatment activities per client per week. Individuals experiencing active psychotic manifestations, or other severe mental or physical illness which requires immediate acute medical or psychiatric care, should not be admitted to residential rehabilitation. In addition, the individual shall not be intoxicated, incapacitated due to the effects of alcohol or other drugs, or in withdrawal.~~

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(Source: Repealed at 24 Ill. Reg. 11846, effective AUG 01 2000)

Section 148.370 Payment for Subacute Alcoholism and Substance Abuse Treatment Services

a) The amount approved for payment for alcoholism and substance abuse treatment is based on the type and amount of services required by and actually delivered to a recipient. The amount is determined in accordance with prospective rates developed by the Department of Human Services ~~Alcoholism and Substance Abuse~~ and approved and adopted by the Department of Public Aid (see 77 Ill. Adm. Code 2090.70). The adopted rate shall not exceed the charges to the general public non-recipients.

b) Rates are generated through the application of formal methodologies specific to each category in accordance with the specifications in 77 Ill. Adm. Code 2090.35, 2090.40 and 2090.70. Rate appeals are allowable pursuant to the specifications in 77 Ill. Adm. Code 2090.80 ~~--are--cost-based,--and--individually--established--for--each-service category-at-each-provider.~~

~~1) Outpatient-services-shall-be-reimbursed-at-an--all-inclusive--per client--hour--rate--payable--to--the--nearest-quarter-hour.--Such services-are-defined-as-face-to-face-counseling-with-a--diagnosed client.---No-more-than-three-client-hours-shall-be-reimbursed-for any-recipient-during-a-24-hour-period.--No-more-than-two-of-those hours-may-be-reimbursed-for-group-treatment.~~

~~2) Intensive--outpatient--services--shall--be---reimbursed---at---an all-inclusive-per-diem-rate;-a-client-day-is-defined-as-a-minimum of--four--hours--per-24-hour-period.--No-more-than-one-client-day shall-be-reimbursed-for-any-recipient-during-any-24-hour-period.~~

~~3) Residential-rehabilitation-services-shall--be--reimbursed--at--an all-inclusive--per--diem-rate.--No-more-than-one-client-day-shall be-reimbursed-for-any-recipient-during-any-24-hour-period.~~

~~4) Detoxification-services-shall-be-reimbursed-at--an--all-inclusive per--diem--rate.---However,--admissions-less-than-twelve-hours-in length-shall-have-a-per-episode-rate.~~

~~5) Ancillary-diagnostic--services--shall--be--reimbursed--on--a--per encounter--basis-to-practitioners-at-the-practitioner's-usual-and customary-charge,-not-to-exceed-the-maximum--established,-by--the Department-in-accordance-with-89-Ill.-Adm.-Code-140.400.~~

~~6) Payment-shall-not-be-made-to-a-provider-for-more-than-one-covered subacute--alcoholism-or-substance-abuse-treatment-service-per-day except-for-ancillary-services-which-may-be-reimbursed-in-addition to-one-of-the-other-covered-services.~~

(Source: Amended at 24 Ill. Reg. 11846, effective AUG 01 2000)

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Section 148.380 Rate Appeals for Subacute Alcoholism and Substance Abuse Treatment Services (Repealed)

~~a) Providers-may-appeal-their-rates,-but-must-do-so-within-30-days-of-the postmark-date-of-the-rate-notice.~~

~~b) Rate-may-be-appealed-pursuant-to-77-Ill.-Adm.-Code-2090.~~

~~c) Appeals-shall-be-submitted-in-writing-to-the--Illinois--Department--of Public-Aid,-Division-of-Medical-Programs.~~

~~d) The--Department-of-Public-Aid-shall-refer-the-appeal-to-the-Department of-Alcoholism-and-Substance-Abuse-for-analysis-of-the--appeal's--basis and--substance.-Further-clarification-of-the-information-submitted-may be--requested--of--the--agency.---The--Department--of--Alcoholism--and Substance-Abuse-shall-prepare-a-recommendation-for-the--Department--of Public--Aid--which--shall-make-the-final-administrative-decision-based upon-the-appeal's-conformity-with-77-Ill.-Adm.-Code-2090.80.~~

~~e) The-provider-will-be-notified-of-the-appeal-decision-in-writing-within 60-days-of-the-receipt-of-the-written-appeal.~~

~~f) Depending-upon-the-result-of-the-decision-on-the-appeal,-any-change-in the-reimbursement-rate-may-be-retroactive-to-the-beginning-of-the-rate year-or-to-the-date-of-the-program-change-within--affected--rate--year that-serves-as-the-basis-for-the-rate-appeal.~~

(Source: Repealed at 24 Ill. Reg. 11846, effective AUG 01 2000)

Section 148.390 Hearings

a) The Department may initiate administrative proceedings pursuant to 89 Ill. Adm. Code Part 104, Subpart C, to suspend or terminate certification and eligibility to participate in the Illinois Medical Assistance Program where the provider:

1) Has failed to comply with 77 Ill. Adm. Code 2090.40 ~~2090.40(a)(2),--2090.40(b)(2),--2090.40(c)(2),--or---2090.40(d),~~ and/or

~~2) Has--failed--to--comply--with--77--Ill.-Adm.-Code-2090.110(b)(2), and/or~~

23) Does not have a valid license for an enrolled treatment service category issued by the appropriate licensing authority, and/or

34) Any of the grounds for payment recovery or termination set forth in 89 Ill. Adm. Code 140.15 or 140.16 are present.

b) When a proceeding is initiated against providers of alcoholism or substance abuse services, the Department shall notify the provider of the intended action(s). Notice, service and proof of service shall be in accordance with the "Rules of Practice For Medical Vendor Administrative Proceedings" (89 Ill. Adm. Code 104: Subpart C).

c) All hearings held pursuant to these rules shall be conducted by an attorney designated by the Director of the Department as a hearing officer and said hearing shall be conducted under and governed by the

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applicable "Rules of Practice For Medical Vendor Administrative Proceedings" promulgated by the Department (89 Ill. Adm. Code 104, Subpart C).

d) The hearing officer shall prepare a written report of the case which shall contain findings of fact and recommended decisions with regard to the issues of recoupment, certification and continued participation in the Medicaid Program. The Associate Director of the Office of Alcoholism and Substance Abuse (Department of Human Services) ~~DASA~~ shall also make a recommendation that ~~final determination regarding certification, which~~ shall be in writing and forwarded to the Director of IDPA. The Director of the Department shall then make a final decision ~~concerning participation in the Medicaid Program,~~ based on the findings of fact and all recommendations~~, the recommended decision and the final certification determination by DASA~~. A final administrative decision shall be issued in writing and contain findings of fact and the final determinations concerning recoupment, certification and continued participation in the Medicaid Program. A copy of the decision shall be served on each party.

(Source: Amended at 24 Ill. Reg. ~~11846~~, effective AUG 01 2000)

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1) Heading of the Part: AIDS Drug Assistance Program

2) Code Citation: 77 Ill. Adm. Code 692

3)

Section Numbers:	Adopted Action:
692.10	Amendment
APPENDIX A	Amendment

4) Statutory Authority: Implementing Title II of the Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (42 USC 300ff) and authorized by Section 55.41 of the Civil Administrative Code of Illinois [20 ILCS 2310/55.41].

5) Effective Date of Rules: August 1, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Date Notice of Proposed Rulemaking was Published in the Illinois Register: August 6, 1999 (23 Ill. Reg. 8769)

10) Has the Joint Committee on Administrative Rules issued a Statement of Objection to this rulemaking? No

11) Difference Between Proposal and Final Version: Appendix A was revised to include the 2000 poverty income guidelines.

In addition, various nonsubstantive typographical, grammatical and technical changes were made in response to comments from the Joint Committee on Administrative Rules.

12) Have all the changes agreed upon by the agency and the Joint Committee been made as indicated in the agreements issued by the Joint Committee? All changes agreed upon by the Department and the Joint Committee been made as indicated in the agreements issued by the Joint Committee.

13) Will the rulemaking replace an emergency rulemaking currently in effect? No

14) Are there any other amendments pending on this Part? No

15) Summary and Purpose of Amendments: This rulemaking specifies that the Department will have a maximum of 15 days to issue a written decision on

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applications for the AIDS Drug Assistance Program (ADAP). Currently the Department has 30 days to notify applicants of its decision. The amendments also update the federal Poverty Income Guidelines in Appendix A to reflect 2000 levels and include the maximum annual income levels for ADAP eligibility. By specifying the maximum income levels, the appendix reflects an existing eligibility requirement of the program, which specified 400% of the federal poverty level as the income level that shall not be exceeded for persons to qualify financially for the program.

16) Information and questions regarding these adopted amendments shall be directed to:

Paul Thompson
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
(217) 782-2043
(rules@idph.state.il.us)

The full text of the adopted amendments begins on the next page:

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NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER k: COMMUNICABLE DISEASE CONTROL AND IMMUNIZATIONS

PART 692
AIDS DRUG ASSISTANCE PROGRAM

Section
692.10 Drugs to Prolong the Lives of Non-Medicaid Persons with Acquired Immunodeficiency Syndrome (AIDS) or Human Immunodeficiency Virus (HIV) Infection
APPENDIX A 2000~~1998~~ Poverty Income Guidelines
APPENDIX B CARE Act Sliding Fee Scale

AUTHORITY: Implementing Title II of the Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (42 USC 300ff), and authorized by Section 315 of the Civil Administrative Code of Illinois [20 ILCS 2310/315].

SOURCE: Emergency rule adopted at 15 Ill. Reg. 14699, effective September 30, 1991, for a maximum of 150 days; adopted at 16 Ill. Reg. 4052, effective February 27, 1992; emergency amendment at 17 Ill. Reg. 12913, effective July 23, 1993, for a maximum of 150 days; emergency expired December 20, 1993; amended at 18 Ill. Reg. 1427, effective January 20, 1994; amended at 18 Ill. Reg. 17678, effective November 30, 1994; amended at 20 Ill. Reg. 7531, effective May 15, 1996; emergency amendment at 20 Ill. Reg. 8353, effective June 4, 1996, for a maximum of 150 days; emergency expired November 1, 1996; amended at 21 Ill. Reg. 1203, effective January 10, 1997; amended at 22 Ill. Reg. 14468, effective July 24, 1998; amended at 24 Ill. Reg. ~~11876~~, effective AUG 01 2000.

Section 692.10 Drugs to Prolong the Lives of Non-Medicaid Persons with Acquired Immunodeficiency Syndrome (AIDS) or Human Immunodeficiency Virus (HIV) Infection

Drugs provided under this Section are paid for on behalf of low income individuals with Acquired Immunodeficiency Syndrome (AIDS) or persons with the Human Immunodeficiency Virus (HIV).

a) To qualify for services under this Section, a person must be enrolled in the AIDS Drug Assistance Program as of June 4, 1996, or:
 1) make application with annual renewal to the Illinois Department of Public Health (Department);
 2) be diagnosed as having AIDS or HIV;
 3) ~~on or after August 1, 1998~~, qualify financially with anticipated gross monthly income at or below 400% of the most recent Federal Poverty Guidelines published annually by the U.S. Department of Health and Human Services ~~level~~ for the size of the household (see Appendix A);
 4) not be eligible for 80% or greater insurance coverage for drugs

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through another third party payor;

5) not be eligible for the Medical Assistance Program (Medicaid) on the date drugs are obtained (individuals with financial/medical assistance applications pending or individuals in spenddown unmet status may participate);

6) not be eligible for payment for prescription drugs from any other governmental entity; and

7) be a legal resident of Illinois, as defined by Section 2-10 of the Public Aid Code [305 ILCS 5/2-10], except that:

A) the provision of Section 2-10 of the Public Aid Code stating that applicants for or recipients of public aid must meet such durational requirements as to residence contained in applicable Sections of the Public Aid Code shall not apply to this Part; and

B) the provision of Section 2-10 of the Public Aid Code regarding recipients of aid under Article III, IV, or VI [305 ILCS 5/Art. III, IV or VI] shall apply to any recipient of services under the AIDS Drug Assistance Program.

b) Persons enrolled in the AIDS Drug Assistance Program must reapply annually in order to continue receiving drugs through the Program.

1) Renewal applications must be received by the Department by the expiration date of the client's current enrollment.

2) If a renewal application is not received by the Department within 15 days after the expiration date of the client's current enrollment, the client will be removed from the Program and will be required to meet the eligibility requirements of subsections ~~subsection~~ (a)(1) through (7) of this Section in order to continue receiving drugs through the Program.

c) The Department may suspend a client's enrollment in the AIDS Drug Assistance Program under the following circumstances:

1) submittal of fraudulent application information by an applicant or client;

2) failure to submit an application by the due date;

3) failure to utilize the Program for a six month period.

d) Subject to the availability of funds the Department may implement cost control measures such as client benefit maximums or limitations on new enrollments.

e) All drugs provided under the AIDS Drug Assistance Program have been approved by the federal Food and Drug Administration. The following categories of drugs may be covered under the AIDS Drug Assistance Program. The Department, with the advice of the medical issues subcommittee of the Title II Ryan White AIDS Advisory Council, will determine which drugs will be covered, based on criteria that include the medical appropriateness of the drug for treatment of HIV/AIDS and associated complications:

Category I - Drugs for Anti-Retroviral Therapy;
Category II - Drugs for PCP Prophylaxis and Treatment;
Category III - Drugs for Prophylaxis and Treatment of Opportunistic

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Infections and Anti-Microbials;
Category IV - Drugs for Treatment of Neoplasms; and
Category V - Other Drugs Requiring Prior Approval.

f) All prescriptions must be filled by the Department's ~~sole~~ pharmacy contractors ~~contractor~~.

g) The Department may require participants to pay a copayment for prescriptions received. If a copayment is charged, it must not exceed the sliding fee structure specified in Title II of the CARE Act (see Appendix B).

h) The Department will make a disposition and issue a written decision on an application filed pursuant to this Section within 15 ~~30~~ days from the date the Department receives the application. The Department will make a disposition and issue a written decision on a renewal application filed pursuant to this Section within 15 days from the date the Department receives the application. An individual may appeal the Department's denial of his/her application. Such appeal shall be in accordance with the Department's Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100).

(Source: Amended at 24 Ill. Reg. 11876, effective AUG 01 2000)

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Section 692.APPENDIX A 2000~~1998~~ Poverty Income Guidelines

Size of Family Unit	Poverty Guideline	Maximum Gross Annual Income ADAP Eligibility
1	$ 8,350~~8,050~~	$ 33,400
2	11,250~~10,850~~	45,000
3	14,150~~13,650~~	56,600
4	17,050~~16,450~~	68,200
5	19,950~~19,250~~	79,800
6	22,850~~22,050~~	91,400
7	25,750~~24,850~~	103,000
8	28,650~~27,650~~	114,600

For family units with more than 8 members, add $2,900~~2,800~~ for each additional member.

(Source: Amended at 24 Ill. Reg. 11876, effective AUG 01 2000)

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1) Heading of the Part: Illinois Vital Records Code

2) Code Citation: 77 Ill. Adm. Code 500

3)

Section Numbers:	Adopted Action:
500.10	Amendment
500.20	Amendment
500.47	New Section
500.70	Amendment
APPENDIX E	Amendment
ILLUSTRATION D	Amendment
ILLUSTRATION E	Amendment
ILLUSTRATION F	Repealed
ILLUSTRATION G	Amendment
ILLUSTRATION H	Amendment
ILLUSTRATION I	Amendment
ILLUSTRATION K	New Section
ILLUSTRATION L	New Section
ILLUSTRATION M	New Section
ILLUSTRATION N	New Section
ILLUSTRATION O	New Section
ILLUSTRATIOn P	New Section

4) Statutory Authority: Vital Records Act [410 ILCS 535], Adoption Act [750 ILCS 50], *Jane Doe II v. Lumpkin*, United States District Court, Central District of Illinois, Case No. 89-1224

5) Effective Date of amendments: July 19, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Date Notice of Proposed Rulemaking was Published in the Illinois Register: March 10, 2000; 24 Ill. Reg. 3728

10) Has the Joint Committee on Administrative Rules issued a Statement of Objection to this rulemaking? No

11) Difference between proposal and final version: Various nonsubstantive typographical, grammatical, and form changes were made in response to public comments and recommendations from the Joint Committee on Administrative Rules. The Department implemented recommendations for the rulemaking and forms, specifically to ease the use of the forms for the

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public and to ensure each party to the Adoption Registry and Exchange is represented on the forms with proper verification by the Adoption Registry Staff. In that regard, the Department made the following changes in Section 500.47:

In subsection (a), the following definition was added:

""Statistical records" mean non-identifying numerical data tallying the total number of registrations filed by adopted persons, surrendered persons, non-surrendered birth siblings, adoptive parents, birth parents, and legal guardians; and the total number of registry matches made.".

Subsection (d)(1) was amended to state that the records file includes:

"the General Information Section of an Illinois Adoption Registry Application, the Registration Identification Form, the Medical Questionnaire, and the Information Exchange Authorization or Denial that have been voluntarily completed by the adopted or surrendered person or his or her adoptive parents, legal guardians, birth parents, or birth siblings. The Department of Public Health shall act according to the most recently filed authorization or denial unless that authorization or denial has expired under subsection (f)."

In subsection (e), the following sentence was added after the 1st sentence:

"Before identifying information is released, the Deputy State Registrar and Adoption Registry director must review and only approve the exchange of identifying information if the release is allowed under the requirements of this Part and the Adoption Act."

In subsection (f), the following was added at the end of the 2nd paragraph:

"If the birth sibling of an adopted or surrendered person was not born in Illinois, then that birth sibling must submit a certified copy of his or her birth certificate with the registration."

In subsection (f), the following was added at the end of the 3rd paragraph:

"If registering as the legal guardian of an adopted or surrendered person, then a certified copy of the court order establishing the guardianship must be submitted with the registration. If an adoptive parent or legal guardian of an adopted or surrendered person under the age of 21 files a registration, authorization, or denial, then that registration, authorization, or denial expires when the adopted or surrendered person attains 21 years of age unless the guardianship extends beyond that time

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in which case the registration expires when the guardianship expires. After expiration, the Department shall then not release any registry information and shall close that adoption/surrender records file until the now competent adult adopted or surrendered person files with the Registry a Registration Identification Form, Information Exchange Authorization, or Denial of Information Exchange."

Subsection (j)(3) was amended to be (j)(3)(A) and reads as follows:

"If a registrant is the subject of a Denial of Information Exchange filed by another party to the adoption, the Registry shall not release identifying information to either registrant."

In subsection (k)(1), the following was added at the end of the 1st paragraph:

"Registration and changes must be made using the prescribed forms. The Department shall send to a registrant a written confirmation of the registration or subsequent changes. No other information pertaining to the receipt or status of a registrant's application shall be released without the registrant's written request and proof of identification."

12) Have all the changes agreed upon by the Agency and the Joint Committee been made as indicated in the agreements issued by the Joint Committee? All changes agreed upon by the Department and the Joint Committee have been made as indicated in the agreements issued by the Joint Committee.

13) Will this rulemaking replace an emergency rulemaking currently in effect? No

14) Are there any other amendments Pending on this Part? No

15) Summary and Purpose of amendments: This rulemaking is adopted to comply with Public Act 91-0417 that changed the Adoption Act [750 ILCS 50]. Provides for an Illinois Adoption Registry and Information Exchange to facilitate the exchange of identifying information including medical information between birth parents, adoptive parents or legal guardians of adopted persons, adopted persons age 21 or older, and adopted persons' birth siblings who are age 21 or older. Directs the Adoption Registry Advisory Council to advise the Department of Public Health on procedures and forms used by the Registry. Provides for the creation of an Adoption/Surrender Records File for each adopted or surrendered person born, adopted, or surrendered in Illinois. Implements the $40 fee for registering with the Registry, which fee shall be waived for parties to an adoption and birth siblings of an adopted person who complete a Medical Questionnaire and birth and for adoptive parents registering within 12 months of the adoption. Illustrates forms for the registry. Adds confidentiality provisions.

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16) Information and questions regarding these adopted amendments shall be directed to:

Paul D. Thompson
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
(217) 782-2043
(rules@idph.state.il.us).

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER e: VITAL RECORDS

PART 500
ILLINOIS VITAL RECORDS CODE

Section
500.10 Definitions
500.20 Access to Vital Records
500.30 Delayed Records of Birth
500.40 Amendments, Additions or Corrections to Vital Records
500.45 New Certificates of Birth
500.47 Illinois Adoption Registry and Information Exchange
500.50 Transportation and Disposition of Dead Human Body
500.60 Court Order to Restore Original Certificate of Birth
500.70 Availability of Medical and Health Information
500.80 Appointment and Removal of Local Registrars
500.90 Social Security Numbers of the Mother and Father of an Infant

APPENDIX A Birth Records
ILLUSTRATION A Certificate of Live Birth
ILLUSTRATION B Information For Medical and Health Use Only
ILLUSTRATION C Record of a Foreign Birth
ILLUSTRATION D Certificate of Birth - Foundling Child
ILLUSTRATION E Application for Search of Birth Record Files
ILLUSTRATION F Application for Correction of a Birth Certificate
APPENDIX B Delayed Birth Records
ILLUSTRATION A Instructions for Filing a Delayed Record of Birth for a Child Age One to Seven Years
ILLUSTRATION B Delayed Record of Birth
ILLUSTRATION C Filing a Delayed Record of Birth After the Seventh Birthday
ILLUSTRATION D Application for Delayed Record of Birth
ILLUSTRATION E Delayed Record of Birth (Registered After Seventh Birthday)
ILLUSTRATION F Affidavit in Support of an Application for a Delayed Registration of Birth
APPENDIX C Marriage Application and Record
APPENDIX D Certificate of Dissolution, Invalidity of Marriage or Legal Separation
APPENDIX E Adoption Records
ILLUSTRATION A Certificate of Adoption
ILLUSTRATION B Information Concerning Adoptive Parents
ILLUSTRATION C Information Concerning Parents
ILLUSTRATION D Instructions for Adoption Registry ~~Biological--Parent Registration~~ Forms
ILLUSTRATION E Birth ~~Biological~~ Parent Registration Identification Form
ILLUSTRATION F Instructions for Adoptee Registration (Repealed)
ILLUSTRATION G Adopted Person ~~Adoptee~~ Registration Identification Form

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ILLUSTRATION H Information Exchange Authorization Form
ILLUSTRATION I Denial of Information Exchange Form
ILLUSTRATION J Instructions for Applying for a New Birth Certificate for a Legitimated Child
ILLUSTRATION K Surrendered Person Registration Identification Form
ILLUSTRATION L Non-surrendered Birth Sibling Registration
ILLUSTRATION M Adoptive Parent Registration Identification Form
ILLUSTRATION N Legal Guardian Registration Identification Form
ILLUSTRATION O Adoption Registry Application Form
ILLUSTRATION P Medical Questionnaire Form
APPENDIX F Death Records
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ILLUSTRATION B Medical Examiner's - Coroner's Certificate of Death
ILLUSTRATION C Medical Certificate of Death
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ILLUSTRATION E Corrected Cause of Death Certification
ILLUSTRATION F Application for Correction of a Death Certificate
APPENDIX G Death Records
ILLUSTRATION A Report of Death
ILLUSTRATION B Necropsy (NEC)1
ILLUSTRATION C Permit for Disposition of Dead Human Body
ILLUSTRATION D Coroner's or Medical Examiner's Permit to Cremate a Dead Human Body
ILLUSTRATION E Application for Disinterment - Reinterment Permit
APPENDIX H Affidavits
ILLUSTRATION A Affidavit by Mother
ILLUSTRATION B Affidavit by Father
ILLUSTRATION C Affidavit and Certificate of Correction
ILLUSTRATION D Abstract of a Record
APPENDIX I Subregistrar's Appointment Blank

AUTHORITY: Implementing and authorized by the Vital Records Act [410 ILCS 535], Adoption Act [750 ILCS 50], and Jane Doe II v. Lumpkin, United States District Court, Central District of Illinois, Case No. 89-1224.

SOURCE: Amended April 7, 1976, effective May 1, 1976; amended at 6 Ill. Reg. 3880, effective March 29, 1982; codified at 8 Ill. Reg. 8917; emergency amendment at 15 Ill. Reg. 3593, effective February 20, 1991, for a maximum of 150 days; emergency expired July 22, 1991; amended at 15 Ill. Reg. 11706, effective August 1, 1991; emergency amendment at 24 Ill. Reg. 3885, effective February 25, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 11882, effective JUL 19 2000.

Section 500.10 Definitions

"Act" means the ~~Illinois~~ Vital Records Act [410 ILCS 535] ~~(Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 73-1 et seq.)~~.

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"Adoption Act" refers to the Act located at 750 ILCS 50.

"Affiant" means the person signing the correction form.

"Certificate" means an officially registered Certificate of Live Birth, Delayed Record of Birth, Medical Death, Medical Examiner's/Coroner's Death, or Fetal Death (Stillbirth).

"Certified court order ~~Court Order~~", "court order ~~Court Order~~", "appropriate court order ~~Appropriate Court Order~~", and "court determination ~~Court Determination~~" mean an order entered by a court of competent jurisidiction which order is certified by the clerk of the court, dated, and which order includes the full information required by the State Registrar to amend, correct, replace, impound, open, or create a vital record without reference to any other document.

"Correction" means the administrative correction or amendment of a certificate to reflect the correct information at items where incorrect information has originally been entered; or the addition of correct information for items previously omitted from the certificate. "Correction" does not mean to enter on the certificate facts different from those which existed at the time of the event.

"Correction form" means the standard correction form, "Affidavit and Certificate of Correction," prescribed by the State Registrar.

"Court of competent jurisdiction ~~Competent Jurisdiction~~" means any Circuit Court in Illinois, any United States District Court, any equivalent court in any state or United States territory, any tribal court of any of the Indian Nations located within the United States, and any appellate level court in the United States. "Court of competent jurisdiction" ~~Competent Jurisdiction~~ does ~~shall~~ not include any administrative body or tribunal without general trial jurisdiction.

"Custodian" means the State Registrar of Vital Records, local registrars, or county clerks.

"Delayed birth registration ~~Birth Registration~~" means the registration of any birth that ~~which~~ was not registered within 3 ~~three~~ days after the event and includes:

the registration of a birth that ~~which~~ occurred more than 3 ~~three~~ days, but less than one year prior to the application for registration;

the registration of a birth that ~~which~~ occurred more than one year, but less than 7 ~~seven~~ years prior to the application for

registration; and

the registration of a birth that ~~which~~ occurred more than 7 ~~seven~~ years prior to the application for registration.

"Final disposition" means the burial, cremation, or other disposition of a dead human body, ~~or~~ fetus, or parts of a dead human body or fetus ~~thereof~~, including depositing in a vault or tomb, removal from the State, or use by a hospital or other institution for medical or scientific study in accordance with the ~~The~~ Cadaver Act [410 ILCS 510] ~~(Ill. Rev. Stat. 1989, ch. 144, pars. 1551 to 1554)~~ and Section 8 of the Uniform Anatomical Gift Act [755 ILCS 50/8] ~~(Ill. Rev. Stat. 1989, ch. 110 1/2, par. 308)~~.

"Funeral director or person acting as such" means a person licensed in the State of Illinois to practice funeral directing, or a person acting under the direction or supervision of an Illinois licensed funeral director as an employee or an associate of the funeral director ~~thereof~~.

"Legal representative ~~Representative~~" refers to:

an ~~An~~ attorney acting on behalf of a person(s) named on a birth certificate;

an ~~An~~ agent authorized by power of attorney;

a ~~Other~~ court-appointed personal representative;

an ~~An~~ agent with written, notarized authorization from a person(s) named on a birth certificate for the purpose of obtaining a certified copy for that person; or

any ~~Any~~ other agent, approved by the State Registrar as a legal representative of the person to whom the birth certificate relates.

"Major correction" includes, but is not limited to, any administrative correction made more than one year after the date of the occurrence, or an administrative correction made within one year of the date of the occurrence relating to these items (except as provided in Section 500.40(f)(3)(D) of this Part):

significant changes in the surname of the registered person;

on births, changes in the date or place of the occurrence; the parent(s) age(s), if changed more than 2 years;

changes in the cause of death;

the identity of the parent(s) on the birth certificate; changes in marital status; or

the birthdate and/or age of the decedent on a death certificate; or, other like circumstances.

Any other item corrected within one year of the occurrence is considered a "minor correction."

"Minor correction" means any administrative correction made within one year of the occurrence not meeting the criteria of a major correction.

"Personal services contract" means a contract between a unit of the State or local government body and an individual or a firm for the provision of services to the unit of the State or local government.

"State Registrar" means the State Registrar of Vital Records.

(Source: Amended at 24 Ill. Reg. 11882, effective JUL 19 2000)

Section 500.20 Access to Vital Records

a) Any custodian of vital records may furnish, upon the ~~such~~ terms or conditions as he or she may prescribe under the Act, the Adoption Act, and this Part, when deemed in the public interest and not for purposes of commercial solicitation or private gain, copies of vital ~~said~~ records or data from these records: ~~therefrom~~, to public agencies administering health, welfare, safety, law enforcement, or public assistance programs; and to private agencies, approved by the State Registrar, such as hospitals, public news media, abstract and title companies, and credit bureaus.

b) Nothing in this Part ~~herein~~ shall be construed as authorization to permit access to, or inspection of, the vital records by any person other than the custodians or their employees, nor as authorization to disclose information contained in these ~~such~~ records, or copy, or permit to be copied, all or any part of these ~~such~~ records, except as authorized by the Act, the Adoption Act, and this Part.

c) It shall be the duty of the person(s) responsible for the completion of the Certificate of Live Birth to ensure that the information necessary to complete the form is collected, recorded, and maintained in a confidential manner. This duty includes retaining, in a secure manner, only one copy of either the original birth record or the worksheet unless the hospital can demonstrate to the State Register that more than one copy is necessary for the maintenance of hospital

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records. Under no circumstances shall the original certificate or worksheet be disclosed to anyone other than hospital officials responsible for completing the form, the State Registrar, or hospital personnel directly involved in the birth mother's care and then only for administrative or health care purposes.

d) Hospital personnel responsible for the preparation of the Certificate of Live Birth are strictly prohibited from requesting any information or consent from the birth mother or from presenting the worksheet and/or the original certificate to the birth parent(s) for information, review, or signature(s) in the presence of anyone other than hospital personnel directly involved in the birth mother's care. The father's signature shall be affixed to the original birth certificate in a manner that will not divulge the data contained in the section entitled "Information for Medical and Health Use Only".

e) Under no circumstances shall the section of the Certificate of Live Birth entitled "Information for Medical and Health Use Only" be disclosed to anyone, with the exception of the birth mother, the State Registrar, and hospital personnel directly involved in the birth mother's care, unless written informed consent has been given by the mother. This prohibition includes the father of the infant and all immediate and extended family members. Consent shall be obtained from the birth mother only when she is alone or in the presence of hospital personnel directly involved in her care.

f) No person may be granted access to an original birth record or file of an adopted person, except upon presentation of a certified court order directing the State Registrar to provide this ~~such~~ access.

g) Certified copies of an official birth record will be provided to the person to whom the record relates (if the person is 18 years of age or older), or to the parents, to the legal guardian(s), and to the legal representative, as defined in Section 500.10, of the person to whom the record relates, upon payment of the fee under Section 25 of the Act [410 ILCS 535/25].

h) Certified copies of an official death record will be provided to the administrator or executor of the decedant's estate.

i) Nothing in this Part shall be construed to permit disclosure of information contained in the "Information for Medical and Health Use Only" section of the Certificate of Live Birth and the Certificate of Fetal Death or the "Information for Statistical Purposes Only" section of the Certificate of Marriage or Certificate of Dissolution, Invalidity of Marriage, or Legal Separation unless specifically authorized by the State Registrar for statistical or research purposes or if authorized by a court of competent jurisdiction.

j) *All information submitted to the Adoption Registry is confidential and gathered by the State solely for the purpose of facilitating the exchange of updated medical data and contact information between adopted and surrendered persons and other registered parties. Information exchanged through the Registry shall not be admissible as evidence nor discoverable in any action of any kind in any court or*

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before any tribunal, board, agency, or commission and shall not be disclosed, except as authorized by this Part under the Adoption Act. Disclosure of identifying information in violation of the Adoption Act is a Class A misdemeanor. (Section 18.8 of the Adoption Act)

(Source: Amended at 24 Ill. Reg. ~~11882~~ 11882, effective JUL 19 2000)

Section 500.47 Illinois Adoption Registry and Information Exchange

a) As used in this Section:

"Adopted person" means a person who was adopted pursuant to the laws in effect at the time of the adoption (Section 18.06 of the Adoption Act).

"Adoptive parent" means a person who has become a parent through the legal process of adoption (Section 18.06 of the Adoption Act).

"Agency" means a public child welfare agency or a licensed child welfare agency (Section 18.06 of the Adoption Act).

"Birth father" means the biological father of an adopted or surrendered person who is named on the original certificate of live birth or on a consent or surrender document, or a biological father whose paternity has been established by a judgment or order of the court, pursuant to the Illinois Parentage Act of 1984 (Section 18.06 of the Adoption Act).

"Birth mother" means the biological mother of an adopted or surrendered person (Section 18.06 of the Adoption Act).

"Birth parent" means a birth mother or birth father of an adopted or surrendered person (Section 18.06 of the Adoption Act).

"Birth sibling" means the adult full or half sibling of an adopted or surrendered person (Section 18.06 of the Adoption Act).

"Council" means the Adoption Registry Advisory Council created under Section 18.07 of the Adoption Act).

"Denial of Information Exchange" means an affidavit completed by a registrant with the Illinois Adoption Registry and Information Exchange denying the release of identifying information (Section 18.06 of the Adoption Act).

"Department" means the Department of Public Health.

"Information Exchange Authorization" means an affidavit completed by a registrant with the Illinois Adoption Registry and Information Exchange authorizing the release of identifying information (Section 18.06 of the Adoption Act).

"Medical Questionnaire" means the medical history questionnaire completed by a registrant of the Illinois Adoption Registry and Information Exchange (Section 18.06 of the Adoption Act).

"Proof of death" means a certified copy of a *death certificate* (Section 18.06 of the Adoption Act).

"Registrant" or "registered party" means a birth parent, birth sibling, adopted or surrendered person over the age of 21, or adoptive parent or legal guardian of an adopted or surrendered person under the age of 21 who has filed an Illinois Adoption Registry Application or Registration Identification Form with the Registry (Section 18.06 of the Adoption Act).

"Statistical records" mean non-identifying numerical data tallying the total number of registrations filed by adopted persons, surrendered persons, non-surrendered birth sibilings, adoptive parents, birth parents, and legal guardians; and the total number of registry matches made.

"Surrendered person" means a person whose parents' rights have been surrendered or terminated but who has not been adopted (Section 18.06 of the Adoption Act).

b) The Department of Public Health will:

1) Maintain the Illinois Adoption Registry, Information Exchange, and the Medical Information Exchange under the Adoption Act to assist the voluntary exchange of information between mutually consenting birth parents or birth siblings and mutually consenting adoptive parents or legal guardians of adopted or surrendered persons under the age of 21 or adopted or surrendered persons 21 years of age or older.

2) Inform the public about the Adoption Registry and information exchanges through public service announcements, media coverage and, for a minimum of 4 years, through notices enclosed with driver's license renewal applications.

3) Notify all parties who registered with the Illinois Adoption Registry before January 1, 2000 of the Adoption Registry and Medical Information Exchange.

4) Maintain an informational Internet site where interested parties may access information about the Illinois Adoption Registry and

Information Exchange and download all necessary application forms.

5) Maintain or aggregate statistical records and informational material regarding the Registry and Registry participation for periodic distribution to the public.

c) Effective with the establishment of an Adoption Registry and Medical Information Exchange, the Department will provide information about Adoption Registry services. The address and telephone number of the Adoption Registry is as follows:

Adoption Registry
Illinois Department of Public Health
Division of Vital Records
605 W. Jefferson
Springfield, Illinois 62702-6553
[Toll free] 877-323-5299 or 217-557-5159

d) When a person registers with the Illinois Adoption Registry and completes an Illinois Adoption Registry Application or a Registration Identification Form, the Registry shall establish a new Adoption/Surrender Records File for that person. An established Adoption/Surrender Records File shall be limited to the following items:

1) The General Information Section of an Illinois Adoption Registry Application, the Registration Identification Form, the Medical Questionnaire, and the Information Exchange Authorization or Denial that have been voluntarily completed by the adopted or surrendered person or his or her adoptive parents, legal guardians, birth parents, or birth siblings. The Department of Public Health shall act according to the most recently filed authorization or denial unless that authorization or denial has expired under subsection (f).

2) Photographs and written statements voluntarily provided by a registrant for the adopted or surrendered person or his or her adoptive parents, legal guardians, birth parents, or birth siblings. The photographs shall be submitted in an unsealed envelope no larger than 8 1/2" x 11" and shall not include identifying information about a person other than the registrant who submitted them. Identifying information submitted about persons other than the registrant shall be redacted by the Department or the information shall be returned to the registrant for removal of that identifying information.

3) Any Information Exchange Authorization or Denial of Information Exchange that has been filed by a registrant. The Department of Public Health shall act according to the most recently filed authorization or denial unless that authorization or denial has expired under subsection (f).

4) For all adoptions finalized after January 1, 2000, copies of the

original certificate of live birth and the certificate of adoption.

5) Updated addresses submitted by a registered party about himself or herself.

6) Proof of death that has been submitted by an adopted or surrendered person, adoptive parent, legal guardian, birth parent, or birth sibling.

e) The Department will establish and maintain a Registry to in writing only provide identifying information to mutually consenting adult adopted or surrendered persons, birth parents, adoptive parents, legal guardians, and birth siblings. Before identifying information is released, the Deputy State Registrar and Adoption Registry director must review and only approve the exchange of identifying information if the release is allowed under the requirements of this Part and the Adoption Act. Identifying information includes the following items:

1) The name and last known address of the consenting person or persons.

2) A copy of the Illinois Adoption Registry Application of the consenting person or persons.

3) A copy of the original certificate of live birth of the adopted person. Written authorization from all parties identified must be received before the disclosure of the respective party's identifying information.

4) A copy of the completed Medical Questionnaire.

f) After a child is surrendered for adoption, during the adoption proceedings, or after the adoption, either birth parent or both birth parents may file with the Registry a Birth Parent Registration Identification Form and an Information Exchange Authorization or a Denial of Information Exchange.

A birth sibling 21 years of age or older who was not surrendered for adoption, and who has submitted proof of death for a deceased birth parent who did not file a Denial of Information Exchange with the Registry before his or her death, may file a Registration Identification Form and an Information Exchange Authorization or a Denial of Information Exchange. If the birth sibling of an adopted or surrendered person was not born in Illinois, then that birth sibling must submit a certified copy of his or her birth certificate with the registration.

An adopted person over the age of 21 or still under guardianship, or a surrendered person over the age of 21, or an adoptive parent or legal guardian of an adopted or surrendered person under the age of 21 may file with the Registry a Registration Identification Form and an Information Exchange Authorization or a Denial of Information Exchange. If registering as the legal guardian of an adopted or surrendered person, then a certified copy of the court order establishing the guardianship must be submitted with the registration. If an adoptive parent or legal guardian of an adopted or surrendered

person under the age of 21 files a registration, authorization, or denial, then that registration, authorization, or denial expires when the adopted or surrendered person attains 21 years of age unless the guardianship extends beyond that time, in which case the registration expires when the guardianship expires. After expiration, the Department shall then not release any Registry information and shall close that adoption/surrender records file until the now competent adult adopted or surrendered person files with the Registry a Registration Identification Form, Information Exchange Authorization, or Denial of Information Exchange.

g) The Department will supply to the adopted or surrendered person, or his or her adoptive parents or legal guardians, and to the birth parents identifying information only if both the adopted or surrendered person, or his or her adoptive parents or legal guardians, and the birth parents have filed with the Registry an Information Exchange Authorization and the information at the Registry indicates that the consenting adopted or surrendered person or the child of the consenting adoptive parents or legal guardians is the child of the consenting birth parents. The Department will supply to adopted or surrendered persons who are birth siblings identifying information only if both siblings have filed with the Registry an Information Exchange Authorization and the information at the Registry indicates that the consenting siblings have one or both birth parents in common. Identifying information will be supplied to consenting birth siblings who were adopted or surrendered if the consenting sibling is 21 years of age or older. Identifying information will be supplied to consenting birth siblings who were not adopted or surrendered if the consenting sibling is 21 years of age or older, has proof of death of the common birth parent, if one birth parent was in common or proof of death of both parents if both were in common, and the common birth parent or common birth parents did not file a Denial of Information Exchange with the Registry before his or her death.

h) A birth parent, birth sibling, adopted or surrendered person, or adoptive parents or legal guardians may notify the Registry of their desire not to have their identity revealed or may revoke any previously filed Information Exchange Authorization or Medical Questionnaire/Medical Information Exchange Release by completing and filing with the Registry a Registry Identification Form along with a Denial of Information Exchange or modified Information Exchange Authorization. The Illinois Adoption Registry Application does not need to be completed to file a Denial of Information Exchange. An adopted or surrendered person or his or her adoptive parents or legal guardians, birth sibling, or birth parent may revoke a Denial of Information Exchange or Denial of Medical Information Exchange Release by filing an Information Exchange Authorization. The Department of Public Health shall act according to the most recently filed authorization or denial unless

that authorization or denial has expired under subsection (f).

i) Information submitted to the Registry is confidential and gathered by the State to assist the exchange of updated medical data and contact information between adopted and surrendered persons and other registered parties. Information exchanged through the Registry is not admissible as evidence nor discoverable in an action in a court, tribunal, board, agency, or commission, except as provided in subsection (i)(1). Disclosure of information in violation of the Adoption Act is a Class A misdemeanor (see Section 18.8 of the Adoption Act).

1) Information from the Registry may not be disclosed, except as authorized by the Adoption Act, including under Section 18.1(f) of that Act, only:

A) Upon a Court Order, which order shall name the person or persons entitled to the information.

B) To the adopted or surrendered person, adoptive parents or legal guardians, birth sibling, or birth parent if both the adopted or surrendered person, or his or her adoptive parents or legal guardians, and his or her birth parent, both birth parents, or birth siblings, have filed with the Registry an Information Exchange Authorization and have otherwise met the conditions of this Part.

C) As authorized under Section 18.3(h) of the Adoption Act.

D) If requested by an adopted person, a copy of the certificate of live birth shall only be released to the adopted person under the conditions of this Part if he or she was born in Illinois and is the subject of an Information Exchange Authorization filed by one of his or her birth parents or non-surrendered birth siblings.

2) A person who willfully provides unauthorized disclosure of information filed with the Registry or who knowingly or intentionally files false information with the Registry is guilty of a Class A misdemeanor and is liable for damages under Section 18.1(f) of the Adoption Act.

3) Identifying information submitted about persons other than the registrant shall be redacted by the Department or the information shall be returned to the registrant for removal of that identifying information. The Department shall redact identifying information provided to it about a party who has not consented to the disclosure of the identifying information.

j) Upon meeting the requirements of this Part, the Registry shall release identifying information in writing only as specified on the Information Exchange Authorization to the following mutually consenting registered parties and provide them with photographs that have been placed in the Adoption/Surrender Records File and are specifically intended for the registered parties:

1) An adult adopted or surrendered person and one of his or her birth parents or birth siblings who have both filed with the

Registry an Information Exchange Authorization specifying the other consenting party, if information available to the Registry confirms that the consenting adopted or surrendered person is a birth relative of the consenting birth parent or sibling.

2) The adoptive parent or legal guardian of an adopted or surrendered person under the age of 21 and one of his or her birth parents or birth siblings who have both filed with the Registry an Information Exchange Authorization specifying the other consenting party if the information available to the Registry confirms that the child of the consenting adoptive parent or legal guardian is a birth relative of the consenting birth parent or birth sibling.

3) If a registrant has completed a Medical Questionnaire and has consented to its disclosure, that Questionnaire shall be released to any registered party who has indicated his/her desire to receive the information on his or her Illinois Adoption Registry Application if information available to the Registry confirms that the consenting parties are birth relatives or that the consenting birth relative and the child of the consenting adoptive parents or legal guardians are birth relatives.

A) If a registrant is the subject of a Denial of Information Exchange filed by another party to the adoption, the Registry shall not release identifying information to either registrant.

B) If a registrant is the subject of a Denial of Medical Information Exchange filed by another party to the adoption, the Registry shall not release the Medical Questionnaire to either registrant.

k) The forms for the Adoption Registry Application, Birth Parent Registration Identification, Adopted Person Registration Identification, Surrendered Person Registration Identification, Non-surrendered Birth Sibling Registration Identification, Adoptive Parent Registration Identification, Legal Guardian Registration Identification, Information Exchange Authorization, Denial of Information Exchange, and Medical Questionnaire are included as Illustrations in Appendix E of this Part.

1) Registration with the Illinois Adoption Registry and Medical Information Exchange is effective upon the filing with the Registry of the applicant's completed Illinois Adoption Registry Application. Registration and changes must be made using the prescribed forms. The Department shall send to a registrant a written confirmation of the registration or subsequent changes. No other information pertaining to the receipt or status of a registrant's application shall be released without the registrant's written request and proof of identification.

2) When an Illinois Adoption Registry Application, Information

Exchange Authorization, or a Denial of Information Exchange or Release is executed in a foreign country, the execution must be acknowledged or affirmed before an officer of the United States consular services. If the person signing an Information Exchange Authorization or a Denial of Information is in the military service of the United States, the execution of the document may be acknowledged before a commissioned officer and the signature of the officer on the certificate must be verified or acknowledged before a notary public or by other procedure of the armed forces.

3) A registrant may complete all or any part of the Illinois Adoption Registry form. The Illinois Adoption Registry forms, required documents, and affidavits submitted to the Registry shall be accompanied by a copy of proof of identification. Accepted forms of identification include a driver's license, state or federal identification card, military identification card, passport, or other government issued identification card with a photograph, but does not include a firearm owner's identification card.

4) The registrant must pay a $40 fee for registering with the Illinois Adoption Registry and Information Exchange. This fee will be waived, however, for all adopted or surrendered persons, adoptive parents, legal guardians, birth parents, and birth siblings who complete a Medical Questionnaire at the time of registration and authorize its release to specified registered parties, and for adoptive parents registering within 12 months after the finalization of the adoption. In addition, the Department will not charge a fee for the update, withdrawl, or revocation of a form.

l) The Adoption Registry Advisory Council is chaired by the Director of Public Health or the Director's designee. The Council will:

1) Advise the Department on the development of rules, procedures, and forms used by the Illinois Adoption Registry and Information Exchange.

2) Make recommendations regarding the procedures, tools and technology that will ensure efficient and effective operation of the Registry.

3) Submit a report of statistical records to the Governor and General Assembly.

4) Assist the Department with the development, publication, and circulation of an informational pamphlet that describes the purpose, function, and mechanics of the Illinois Adoption Registry and Information Exchange, including information about who is eligible to register and how to register; information about the questions and concerns that registrants may develop when they register or when they receive information from the Registry; and a list of services, programs, groups, and informational websites that are available to assist registrants with their questions and concerns.

(Source: Amended at 24 Ill. Reg. 11882, effective JUL 19 2000)

Section 500.70 Availability of Medical and Health Information

a) All reports issued by the Department that ~~which~~ are aggregated to make it impossible to identify any patient or reporting facility, including the annual report, shall be made available to the public pursuant to the Department's Freedom of Information Code ~~rules~~ (2 Ill. Adm. Code 1126) and the Freedom of Information Act [5 ILCS 140] ~~(Ill. Rev. Stat. 1989, ch. 116, par. 201 et seq.)~~.

b) All requests by bonafide researchers approved by the State Registrar seeking confidential vital records data and/or certificates must be submitted in writing to the Division of Vital Records. The request must include a study protocol that ~~which~~ contains: objectives of the research; rationale for the research; including scientific literature justifying the current proposal; overall study methods, including copies of forms, questionnaires, and consent forms used to contact facilities, physicians, or study subjects; methods for the processing of data; storage and security measures taken to insure confidentiality of the registrant and parental identifying information; time frame of the study; a description of the funding source of the study (e.g., federal contract); and the curriculum vitae of the principal investigator and a list of collaborators. In addition, the research request must specify what identifying information is needed and how the information will be used.

c) All requests to conduct research and all modifications to approved research proposals involving the use of data and/or vital records certificates that include ~~which includes~~ identifying information shall be subject to a review to determine compliance with the following conditions:

1) the request for identifying information contains stated goals or objectives;

2) the request documents the feasibility of the study design in achieving the stated goals and objectives;

3) the request documents the need for the requested data to achieve the stated goals and objectives;

4) the requested data can be provided within the time frame ~~timeframe~~ set forth in the request;

5) the request documents that the researcher has qualifications relevant to the type of research being conducted;

6) the research will not duplicate other research already underway using the same data; and

7) other ~~such~~ conditions relevant to the need for the identifying information and the applicant's and parental confidentiality

rights because the Department will only release identifying information that ~~which~~ is necessary for the research.

d) Research Agreements

1) The Department will enter into research contracts for all approved research requests. These contracts shall specify exactly what information is being released and how it can be used in accordance with the standards in subsection (c) ~~above~~. In addition, the researcher shall include an assurance that:

A) use of data is restricted to the specifications of the protocol;

B) any and all data and/or vital records certificates that ~~which~~ may lead to the identity of any registrant or parent, research subject, physician, informant, other person, or hospital is strictly privileged and confidential, and the researcher agrees to keep all this ~~such~~ data strictly confidential at all times;

C) all officers, agents and employees will keep all this ~~such~~ data strictly confidential, will communicate the requirements of this Section to all officers, agents, and employees, will discipline all persons who may violate the requirements of this Section, and will notify the Department in writing within ~~forty-eight (~~ 48~~)~~ hours of any violation of this Section, including full details of the violation and corrective actions to be taken;

D) all data provided by the Department pursuant to this contract may only be used for the purposes named in this contract and that any other or additional use of the data may result in immediate termination of this contract by the Department;

E) all data provided by the Department pursuant to this contract is the sole property of the Department and may not be copied or reproduced in any form or manner, and the researcher agrees to return all data and all copies and reproduction of the data to the Department upon termination of this contract or make assurances that data and/or vital records certificates will be properly shredded or incinerated;~~,~~

F) any breach of any of the provisions of the ~~such~~ research contract will void the contract. All data previously provided by the Department, including any copies of the data ~~same~~, regardless of form, will be returned to the Department immediately. No further data will be released to, nor research contracts entered into with, the principal investigator and collaborators for a period of time to be determined by the State Registrar.

2) Any departures from the approved protocol must be submitted in writing and approved by the Director in accordance with subsection (c)(2) ~~above~~ prior to initiation. No identifying

information may be released by a researcher to a third party.

e) Prior to the release to private researchers of any copies of birth records~~,~~ or data from the birth records ~~therefrom, to private researchers~~ that contain personal identifiers, the State shall first obtain informed consent from the mother to whom the record relates. In requesting this informed consent, the mother shall be provided with a brief description of the research project. Personal identifiers include names, social security numbers, addresses, or any combination of items that may divulge the identity of an individual listed on a Certificate of Live Birth. For the purposes of this Part, private researchers shall include all those researchers who are not employed by the federal government and those researchers not ~~nor those who are~~ employed by and/or not having~~, nor have~~ a personal services contract to conduct the research utilizing the requested data with any State or local governmental body. ~~For the purposes of this Part, a personal services contract shall be defined as a contract between a unit of the State or local government body and an individual or a firm for the provision of services to the unit of the State or local government.~~ Under a governmental personal services ~~such~~ contract, the work product and all drafts of the contract ~~thereof~~ shall remain the property of ~~the unit of~~ the State or local government. Personal services contractors shall be considered custodians of vital records within the meaning of the Vital Records Act for the term of the personal services contract.

f) Informed consent shall include the written signature of the mother approving her participation in the private research project. Only after the Department receives informed consent from the mother approving the release of her medical data to the private researcher, may the Department release this data.

g) The Department shall disclose individual patient or facility information to the reporting facility that~~, which~~ originally supplied that information to the Department, upon written request of the facility.

h) The patient identifying information submitted to the Department by those entities required to submit information under the Act and this Part is to be used in the course of medical study under Part 21 of Article 8 of the Code of Civil Procedure [735 ILCS 5/Art. 8, Part 21] ~~(Ill. Rev. Stat. 1989, ch. 110, par. 8-2101 et seq.)~~. Therefore, this information is privileged from disclosure by Part 21 of Article 8 of the Code of Civil Procedure.

i) The identity of any facility or any group of facts that ~~which~~ tends to lead to the identity of any person submitted to the Division of Vital Records is confidential and shall not be open to public inspection or dissemination. This ~~Such~~ information shall not be available for disclosure, inspection, or copying under the Freedom of Information Act [5 ILCS 140] ~~(Ill. Rev. Stat. 1989, ch. 116, par. 201 et seq.)~~ or the State Records Act [5 ILCS 160] ~~(Ill. Rev. Stat. 1989, ch. 116, par. 43.4 et seq.)~~. Information for specific research purposes may be

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released in accordance with procedures established by the Department in this Section.

j) Every hospital shall provide representatives of the Department with access to information from all medical, pathological, and other pertinent records and logs related to the preparation of vital records. The mode of access shall be by mutual agreement between the hospital and the Department.

k) Notwithstanding the provisions of this Section, *all information submitted to the Adoption Registry is confidential and gathered by the State solely for the purpose of facilitating the exchange of updated medical data and contact information between adopted and surrendered persons and other registered parties and shall not be released under this Section. Disclosure of identifying information in violation of the Adoption Act is a Class A misdemeanor* (Section 18.8 of the Adoption Act).

(Source: Amended at 24 Ill. Reg. 11882, effective JUL 19 2000)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Section 500.APPENDIX E Adoption Records

Section 500.ILLUSTRATION D Instructions for Adoption Registry Forms ~~Biological Parent Registration~~

~~[State symbol]~~
~~STATE OF ILLINOIS~~
~~DEPARTMENT OF PUBLIC HEALTH~~
~~Bernard J. Turnock, M.D., M.P.H., Director~~

INSTRUCTIONS FOR ADOPTION REGISTRY FORMS ~~BIOLOGICAL PARENT REGISTRATION~~

1. Type or print all known information on the Adoption Registry forms ~~Biological--Parent--Registration Identification form~~. Enter the date, sign your present legal name, and please print or type your name below your signature.
2. If you wish to be contacted by a pertinent registered party ~~your child~~, complete the Information Exchange Authorization form and sign it ~~before a judge or representative of an adoption--placement--agency. What person will complete the remainder of the form~~.
3. If you have submitted a ~~Biological Parent~~ Registration Identification form but do not wish to be contacted by the pertinent registered party ~~your--biological--parent(s)~~, complete the Denial of Information Exchange form and sign it.
4. Send the completed ~~Biological Parent~~ Registration Identification form, Adoption Registry Application, Information Exchange Authorization, and or Denial forms, and copy of proof of identification (driver's license, state or federal identification card, passport, or other government-issued identification card with a photograph, but not a firearm owner's identification card) ~~and--Information--Exchange Authorization form or the Denial Information Exchange form~~ to:

 Illinois Department of Public Health
 Division of Vital Records
 Adoption Registry
 605 West Jefferson Street
 Springfield, Illinois 62702

5. Enclose a certified check or money order for $40 made payable to the Illinois Department of Public Health Adoption Registry. This fee is not required, however, (i) for all adopted or surrendered persons, adoptive parents, legal guardians, birth parents, and birth siblings who complete a Medical Questionnaire at the time of registration and authorize its release to specified registered parties, (ii) for adoptive parents registering within 12 months after the finalization of the adoption, and (iii) for the update, withdrawl, or revocation of a form.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

~~VR--161-535-West-Jefferson-Street,-Room-450,-Springfield,-Illinois-62761.--(217)-782-4977~~
~~100-West-Randolph-Street-Suite-400,-Chicago,-Illinois-60601.--(312)917-2793~~

(Source: Amended at 24 Ill. Reg. 11882, effective JUL 19 2000)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT(S)

Section 500.ILLUSTRATION E Birth ~~Biological~~ Parent Registration Identification Form

1482-0458

BIOLOGICAL PARENT IDENTIFICATION
(Type or print all known information)

I, _____, state that I am the _____ (mother or father) of the following child:

Child's original name: _____ (first) (middle) (last)

Hour of birth: _____ M. Date of birth: _____

City and state of birth: _____

Name of hospital: _____

Father's full name: _____ (first) (middle) (last)

Date of birth: _____

City and state of birth: _____

Name of mother as shown on birth certificate:

_____ (first) (middle) (last)

[redacted]

That I surrendered my child to:

_____ (name of agency)

_____ (city and state of agency)

Approximate date child surrendered: _____

That I gave up my child by private adoption on: _____ (date)

City and state: _____

Names of adoptive parents (if known):

Other identifying information: _____

_____ (signature of parent)

_____ (date) _____ (printed or typed name of parent)

VR 161.1

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Illinois Department of Public Health
BIRTH PARENT REGISTRATION IDENTIFICATION
(Enter all known information.)

I, _____ (present name) (first) (middle) (last), state that I am the _____ (birth mother or birth father) of the following child

Child's original name _____ (first) (middle) (last)

Hour of birth _____ a.m./p.m. (circle one) Date of birth _____

City and state of birth _____ Sex _____

Name of hospital _____

Birth father's full name _____ (first) (middle) (last)

Date of birth _____ Race _____

City and state of birth _____

Name of birth mother as shown on original birth certificate _____ (first) (middle) (last)

Date of birth _____ Race _____

City and state of birth _____

My birth child was surrendered to _____ (name of agency)

_____ (city and state of agency)

Approximate date child was surrendered _____

My birth child was placed for adoption on _____ (date)

City and state _____

Names of adoptive parents (if known) _____

Other identifying information _____

Provide name(s) at birth and ages of siblings(s) having a common birth parent with surrendered person (if known). If more than one sibling, please give information requested below on reverse side of this form.

_____ (first) (middle) (last)

Date of birth _____ (or approximate age) Sex _____ Race _____

City and state of birth _____

_____ (signature of birth parent)

_____ (date) _____ (printed or typed name of birth parent)

Illinois Department of Public Health, Division of Vital Records, 605 W. Jefferson St., Springfield, IL 62702-5097

VR 161.1 (rev 01/2000) Printed by Authority of the State of Illinois P.O. # 30M 02/00

(Source: Amended at 24 Ill. Reg. 11882, effective

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

JUL 19 2000)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT(S)

Section 500.ILLUSTRATION F Instructions for Adoptee Registration (Repealed)

~~{State symbol}~~
~~STATE OF ILLINOIS~~
~~DEPARTMENT OF PUBLIC HEALTH~~
~~Bernard J. Turnock, M.D., M.P.H.~~
~~Director~~

~~INSTRUCTIONS FOR ADOPTEE REGISTRATION~~

~~Adoptee must be 21 years of age or if over 18 and under 21 must submit: (1) written consent of both adoptive parents or (2) written consent of a single adoptive parent with a certified copy of the judgment of adoption, or (3) proof of death of one adoptive parent and written consent of the surviving adoptive parent, or (4) written consent of the guardian of the adoptee with a certified copy of the order of guardianship.~~

~~1. Type or print all known information on the Adoptee Registration Identification form. Enter the date, sign your present legal name and print or type your name below your signature.~~

~~2. If you wish to contacted by your biological parent(s), complete the Information Exchange Authorization form and sign it before a judge or a representative of an adoption placement agency. That person will complete the remainder of the form.~~

~~3. If you have submitted an Adoptee Registration Identification form but do not wish to be contacted by your biological parent(s), complete the Denial of Information Exchange form, and sign it before a judge or a representative of an adoption placement agency. That person will completer the remainder of the form.~~

~~4. Send the Adoptee Registration Identification form and Information Exchange Authorization form or the Denial Information Exchange form to:~~

~~Illinois Department of Public Health~~
~~Adoption Registry~~
~~605 West Jefferson Street~~
~~Springfield, Illinois 62702~~

~~5. Enclose a certified check or money order for $40.00 made payable to the Illinois Department of Public Health.~~

~~VR 161.2~~
~~535 West Jefferson Street, Room 450, Springfield, Illinois 62761.(217)782-4977~~
~~100 West Randolph Street,Suite 6-600, Chicago, Illinois 60601.(312)917-2793~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 24 Ill. Reg. 11882, effective JUL 19 2000)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT(S)

Section 500.ILLUSTRATION G Adopted Person ~~Adoptee~~ Registration Identification Form

ADOPTEE REGISTRATION IDENTIFICATION
(Type or print all known information)

I, _____, state the following:

Name after adoption: _____
(first) (middle) (last)

Adoptee's name at birth (if known):

_____ Race: _____
(first) (middle) (last)

Date of birth: _____ Sex: _____

City and state of birth: _____

Name of adoptive father:

_____ Race: _____
(first) (middle) (last)

Maiden name of adoptive mother:

_____ Race: _____
(first) (middle) (last)

Maiden name of biological mother:

_____ Race: _____
(first) (middle) (last)

Name of biological father (if known):

_____ Race: _____
(first) (middle) (last)

I was adopted through: _____
(name of agency)

I was adopted privately: _____ (state "yes" if known)

I was adopted in: _____ _____
(city and state) (approximate date)

Other identifying information: _____

_____ _____
(date) (signature of adoptee)

(printed or typed name of adoptee)

VR 161.3

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Illinois Department of Public Health
ADOPTED PERSON REGISTRATION IDENTIFICATION
(Enter all known information.)

I, _____, state the following
(present name) (first) (middle) (last)

Adoptive name _____
(first) (middle) (last)

Adopted person's birth name (if known) _____ Race _____
(first) (middle) (last)

Date of birth _____ Sex ____ Hospital (if known) _____

City and state of birth _____

Name of adoptive father (if applicable) _____ Race _____
(first) (middle) (last)

Name of adoptive mother (if applicable) _____ Race _____
(first) (middle) (maiden) (last)

I was adopted through _____
(name of agency) (city and state of agency)

I was adopted privately _____ (state "yes" if known)

I was adopted in _____ _____
(city and state) (approximate date)

Other identifying information _____

Name of birth mother (if known) _____ Race _____
(first) (middle) (maiden) (last)

Name of birth father (if known) _____ Race _____
(first) (middle) (last)

Provide name(s) at birth and ages of siblings(s) having a common birth parent with adopted person (if known). If more than one sibling, please give information requested below on reverse side of this form

(first) (middle) (last)

Date of birth _____ Sex _____ Race _____
(or approximate age)

City and state of birth _____

Name(s) of common birth parent(s) _____ Race _____
(first) (middle) (last)

_____ Race _____
(first) (middle) (last)

(Please note that (i) you must be at least 21 to register and (ii) if you were not born in Illinois, then you must submit a certified copy of your birth certificate.)

(signature of adopted person)

_____ _____
(date) (printed or typed name of adopted person)

Illinois Department of Public Health, Division of Vital Records, 605 W. Jefferson St., Springfield, IL 62702-5097

VR 161.2 (rev 05/2000) Printed by Authority of the State of Illinois P.O. # 3044 02/60

(Source: Amended at 24 Ill. Reg. 11882, effective JUL 19 2000)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT(S)

Section 500.ILLUSTRATION H Information Exchange Authorization Form

L 482-0430

INFORMATION EXCHANGE AUTHORIZATION

I, _____, state that I am the person who completed the Registration Identification; that I am the age of _____ years; that I hereby authorize the Department of Public Health to give to my (biological parent) (child) the necessary information so I can be contacted; that I am fully aware that I can only be supplied with the name and last known address of my (biological parent) (child) if such person has duly executed an Information Exchange Authorization which has not been revoked; that I can be contacted by writing to: _____
(your name or name of person to contact)
_____ (Address) _____ (Phone No.)

Dated this _____ day of _____, 19___.

_____ _____
(witness) (signature)

CERTIFICATE OF ACKNOWLEDGEMENT

State of _____
County of _____
I, _____ (name of judge or other person)
(title, name/location of court or status/position of other person)
do hereby certify that _____
personally known to me to be the same person whose name is subscribed to the foregoing Information Exchange Authorization, appeared before me this day in person and acknowledged that (he/she) signed and delivered such authorization as (his/her) free and voluntary act:

I have fully explained that by signing such authorization, (he/she) authorizes the Department of Public Health to give to (his/her) (biological parent(s) or child) identifying information to (his/her) and (he/she) stated that such is (his/her) free and desire:

I have fully explained that (he/she) may revoke this authorization by filing with the Registry a Denial of Information Exchange.

In witness whereof, I have hereunto affixed my signature this _____ day of _____ 19____.

(signature)

*When acknowledged before a representative of an agency, this her) signature shall be acknowledged before a notary public.

State of _____
County of _____
I, a Notary Public, in and for the said county, in the state aforesaid, do hereby certify that _____ personally known to me to be the same person whose name is subscribed to the foregoing Certificate of Acknowledgement, appeared before me in person and acknowledged that (he/she) signed such certificate as (his/her) free and voluntary act and that the statements in such certificate are true.

Given under my hand and notarial seal this _____ day of _____ 19____.

(signature)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Illinois Department of Public Health
STATE OF ILLINOIS ADOPTION REGISTRY
INFORMATION EXCHANGE AUTHORIZATION

I, _____, state that I am the person who completed the Registration Identification; that I am the age of _____ years; that I hereby authorize the Department of Public Health to give the (circle as applicable) (birth mother) (birth father) (birth sibling) (adopted/surrendered person) (adoptive mother) (adoptive father) (legal guardian(s)) the following.

(please check the information authorized for exchange)

- ☐ 1. Only my name and last known address
- ☐ 2. A copy of my Illinois Adoption Registry application as specified in the application
- ☐ 3. A copy of the original birth certificate of the adopted person.
- ☐ 4. A copy of the completed medical questionaire

I am fully aware that I can only be supplied with any information about each circled person if that person has duly executed an Information Exchange Authorization for the information which authorization has not been revoked; that I can be contacted by writing to

(insert your own name, complete mailing address and telephone number or this same information for another person to contact)

NAME	TELEPHONE NUMBER ()
STREET ADDRESS	
CITY	STATE / ZIP CODE

Dated _____, _____
(insert date)

_____ _____
WITNESS SIGNATURE

STATE OF _____
COUNTY OF _____

If adoption agency representative, please state title

Name of agency _____
City _____
State _____ Zip Code _____

I, a Notary Public, in and for the said county, in the state aforesaid, do hereby certify that _____ personally known to me to be the same person whose name is subscribed to the foregoing Information Exchange Authorization, appeared before me in person and acknowledged that he/she signed such authorization at his/her free and voluntary act and that the statements in such authorization are true

Given under my hand and notarial seal on _____, _____
(insert date)

SIGNATURE OF NOTARY

Illinois Department of Public Health: Division of Vital Records, 605 W. Jefferson St., Springfield, IL 62702-5097
VR 161.7 (rev.05/2000) Printed by Authority of the State of Illinois P.O. # 3884 05/00

(Source: Amended at 24 Ill. Reg. 11882, effective

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

JUL 1 0 2000)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT(S)

Section 500.ILLUSTRATION I Denial of Information Exchange Form

IL-482-0440

DENIAL OF INFORMATION EXCHANGE

I, _____, state that I am the person who completed the Registration Identification; that I am the age of _____ years; that I hereby instruct the Department of Public Health not to give any identifying information about me to my (biological parent) (child); that I do not wish to be contacted.

Dated this _____ day of _____, 19_____

_____ (witness) _____ (signature)

CERTIFICATE OF ACKNOWLEDGEMENT

State of _____
County of _____

I, _____ (name of notary public or other person (title, name/location of court or state authorization of other person*), do hereby certify that _____, personally known to me to be the same person whose name is subscribed to the foregoing Denial of Information Exchange, appeared before me this day in person and acknowledged that (he/she) signed and delivered said Denial of Information Exchange as (his/her) free and voluntary act.

I fully explained that by signing such Denial of Information Exchange, (he/she) is instructing the Department of Public Health not to reveal any identifying information to (his/her) (child) (biological parent(s)), and (he/she) stated that such is (his/her) intention and desire.

I have fully explained that (he/she) may revoke this Denial of Information Exchange by filing with the Registry an Information Exchange Authorization.

In witness whereof, I have hereunto affixed my signature this _____ day of _____ 19____.

_____ (signature)

*When acknowledged before a representative of an agency, his/her signature shall be acknowledged before a notary public.

State of _____
County of _____

I, a Notary Public, in and for the said county, in the state aforesaid, do hereby certify that _____, personally known to me to be the same person whose name is subscribed to the foregoing certificate of acknowledgement, appeared before me in person and acknowledged that (he/she) signed such certificate as (his/her) free and voluntary act and that the statements in such certificate are true.

Given under my hand and notarial seal this _____ day of _____ 19____.

_____ (signature)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Illinois Department of Public Health
STATE OF ILLINOIS ADOPTION REGISTRY
DENIAL OF INFORMATION EXCHANGE

I, _____, state that I am the person who completed the Registration Identification; that I am the age of _____ years; that I hereby instruct the Department of Public Health ***not*** to give any information about me to the (circle as applicable) (birth mother) (birth father) (birth sibling) (adopted/surrendered person) (adoptive mother) (adoptive father) (legal guardian(s)) ; that I do not wish to be contacted

(Insert your own name, complete mailing address and telephone number or this same information for another person to contact. This information is for administrative purposes only and will be used to provide written confirmation that this denial has been filed.)

NAME	TELEPHONE NUMBER ()
STREET ADDRESS	
CITY	STATE / ZIP CODE

Dated _____, _____
(insert date)

_____ WITNESS

_____ SIGNATURE

If adoption agency representative, please state title

Name of agency _____

City _____

State _____ Zip Code _____

STATE OF_____

COUNTY OF_____

I, a Notary Public, in and for the said county, in the state aforesaid, do hereby certify that _____ personally known to me to be the same person whose name is subscribed to the foregoing Denial of Information Exchange, appeared before me in person and acknowledged that he/she signed such authorization as his/her free and voluntary act and that the statements in such authorization are true.

Given under my hand and notarial seal on _____, _____
(insert date)

_____ SIGNATURE OF NOTARY

Illinois Department of Public Health, Division of Vital Records, 605 W. Jefferson St. Springfield, IL 62702-5097
VR 161.8 (rev 04/2000) Printed by Authority of the State of Illinois P.O. # 30M 02/00

(Source: Amended at 24 Ill. Reg. 11882, effective

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

JUL 19 2000)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Section 500.ILLUSTRATION K Surrendered Person Registration Identification Form

Illinois Department of Public Health
SURRENDERED PERSON REGISTRATION IDENTIFICATION
(Enter all known information.)

I, _____, state the following
(present name) (first) (middle) (last)

Surrendered person's
birth name (if known) _____
(first) (middle) (last)

Date of birth _____ Sex _____ Race _____

City and state of birth _____

Name of
birth mother _____ Race _____
(if known) (first) (middle) (maiden) (last)

Name of
birth father _____ Race _____
(if known) (first) (middle) (last)

I was surrendered for adoption to _____
(name of agency)

City and state of agency _____ Date _____
(approximate)

Other identifying information _____

Name of
guardian father _____ Race _____
(if applicable) (first) (middle) (last)

Maiden name of
guardian mother _____ Race _____
(if applicable) (first) (middle) (maiden) (last)

Provide name(s) at birth and ages of siblings(s) having a common birth parent with surrendered person (if known). If more than one sibling, please give information requested below on reverse side of this form.

(first) (middle) (last)

Date of birth _____ Sex _____ Race _____
(or approximate age)

City and state of birth _____

Name(s) of common
birth parent(s) _____ Race _____
(first) (middle) (maiden) (last)

_____ Race _____
(first) (middle) (last)

(Please note that (i) you must be at least 21 to register and (ii) if you were not born in Illinois, then you must submit a certified copy of your birth certificate.)

(signature of surrendered person)

_____ _____
(date) (printed or typed name of surrendered person)

Illinois Department of Public Health, Division of Vital Records, 605 W. Jefferson St., Springfield, IL 62702-5097

VR 181.3 (rev.05/2000)

Printed by Authority of the State of Illinois P.O. # 30M 05/00

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 24 Ill. Reg. 11882, effective JUL 19 2000)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Section 500.ILLUSTRATION L Non-Surrendered Birth Sibling Registration Identification Form

Illinois Department of Public Health
NON-SURRENDERED BIRTH SIBLING
REGISTRATION IDENTIFICATION
(Enter all known information.)

I, _____, state the following
(present name) (first) (middle) (last)

Sibling's (my) birth name (if known) _____
(first) (middle) (last)

Date of birth _____ Sex _____ Race _____

City and state of birth _____

Name of birth mother _____ Race _____
(if known) (first) (middle) (maiden) (last)

Name of birth father _____ Race _____
(if known) (first) (middle) (last)

Provide name(s) at birth and ages of siblings(s) having a common birth parent with non-surrendered birth sibling (if known). If more than one sibling, please give information requested below on reverse side of this form.

(first) (middle) (last)

Date of birth _____ Sex _____ Race _____
(or approximate age)

City and state of birth _____

Name(s) of common birth parent(s) _____ Race _____
(first) (middle) (maiden) (last)

_____ Race _____
(first) (middle) (last)

My sibling was surrendered for adoption to _____
(name of agency)

City and state of agency _____ Date _____
(approximate)

Other identifying information _____

(Please note that (i) you must be at least 21 to register and (ii) if you were not born in Illinois, then you must submit a certified copy of your birth certificate and (iii) you must submit with the registration a certified copy of the common birth parent(s) death certificate(s) which parent(s) did not file a denial of information exchange.)

(signature of non-surrendered birth sibling)

_____ _____
(date) (printed or typed name of non-surrendered birth sibling)

Illinois Department of Public Health Division of Vital Records 605 W Jefferson St Springfield IL 62702-5097
VR 161 6 (rev 05/2000) Printed by Authority of the State of Illinois P.O. # 3044 02/00

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 24 Ill. Reg. 11882, effective JUL 19 2000)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Section 500.ILLUSTRATION M Adoptive Parent Registration Identification Form

Illinois Department of Public Health
ADOPTIVE PARENT REGISTRATION IDENTIFICATION
(Enter all known information.)

I, _____, state the following
(first) (middle) (last)

I am the adoptive parent of _____ Race _____
(adoptive name) (first) (middle) (last)

Date of birth _____ Sex ____ Hospital (if known) _____

City and state of birth _____

Name of adoptive father _____
(first) (middle) (last)

Name of adoptive mother _____
(first) (middle) (maiden) (last)

Our/my adopted son/daughter was adopted _____ through
(approx. mo./da./yr.)

_____ _____
(name of agency) (city and state of agency)

Adopted privately _____ (state "yes" if applicable)

Adopted person's birth name (if known) _____ Race _____
(first) (middle) (last)

Name of birth mother _____ Race _____
(if known) (first) (middle) (maiden) (last)

Name of birth father _____ Race _____
(if known) (first) (middle) (last)

Other identifying information _____

Provide name(s) at birth and ages of siblings(s) having a common birth parent with adopted person (if known). If more than one sibling, please give information requested below on reverse side of this form.

(first) (middle) (last)

Date of birth _____ Sex _____ Race _____
(or approximate age)

City and state of birth _____

Name(s) of common birth parent(s) _____ Race _____
(first) (middle) (last)

_____ Race _____
(first) (middle) (last)

(Please note that your registration expires when the adopted person attains the age of 21, unless guardianship extends beyond this time and you have submitted a certified court order of guardianship. A competent adult adopted person must file his or her own registration.)

(signature of adoptive parent)

_____ _____
(date) (printed or typed name of adoptive parent)

Illinois Department of Public Health, Division of Vital Records, 605 W. Jefferson St., Springfield, IL 62702-5097

VR 161.4 (rev. 05/2000)

Printed by Authority of the State of Illinois / P.O. # 3044 05/00

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 24 Ill. Reg. 11882, effective JUL 19 2000)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Section 500.ILLUSTRATION N Legal Guardian Registration Identification Form

Illinois Department of Public Health
LEGAL GUARDIAN REGISTRATION IDENTIFICATION
(Enter all known information.)

I, _____, state that I am the court appointed
(first) (middle) (last)
legal guardian of an
(check one) _____ adopted or _____ surrendered person under the age of 21.
or
(check one) _____ adopted or _____ surrendered person over the age of 21 who requires my continuing guardianship

(Please note that you must submit a certified court order of the guardianship.)

Adopted or surrendered person's birth name (if known) _____
(first) (middle) (last)
Adopted or surrendered person's adoptive name (if applicable) _____
(first) (middle) (last)
Adopted or surrendered person's current name (if different than above) _____
(first) (middle) (last)
Date of birth _____ Hour of birth _____a.m./p.m. Sex_____
City and state of birth _____
Hospital of birth _____

Name of birth mother _____
(first) (middle) (maiden if known) (last)
Name of birth father (if known) _____
(first) (middle) (last)
Name of adoptive mother _____
(first) (middle) (maiden) (last)
Name of adoptive father _____
(first) (middle) (last)

Provide name(s) at birth and ages of siblings(s) having a common birth parent with this adopted or surrendered person. If more than one sibling or common birth parent, please give information requested below on reverse side of this form.

(first) (middle) (last) (date of birth or approximate age)
City and state of birth _____ Race _____
Name(s) of common birth parent(s) _____ Race _____
(first) (middle) (last)

(Please note that your registration expires when the adopted person attains the age of 21, unless guardianship extends beyond this time. A competent adult adopted person must file his or her own registration.)

(signature of legal guardian)

_____ _____
(date) (printed or typed name of legal guardian)

Illinois Department of Public Health, Division of Vital Records, 605 W. Jefferson St., Springfield, IL 62702-5097
VR 161.5 (rev. 05/2000) Printed by Authority of the State of Illinois P.O. # 3044 02/00

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 24 Ill. Reg. ~~11882~~ JUL 19 2000, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Section 500.ILLUSTRATION O Adoption Registry Application Form

Illinois Department of Public Health
ILLINOIS ADOPTION REGISTRY APPLICATION
(Enter all known information.)

I am registering/registered as (check one) ____ an adult adopted or surrendered person ____ a birth parent ____ adoptive parent or legal guardian of an adopted or surrendered person, ____ a non-surrendered birth sibling as stated on the registration identification.

Section A. REGISTRANT INFORMATION

Name: _____ Today's date _____
(first) (middle) (maiden if applicable) (last)

Mailing address _____
(street) (city) (state) (zip code)

Sex: _____ SSN ___-___-_____ Phone: (___) _____ **This application is (check)**
(male or female) (OPTIONAL) ___ a new registration
___ an update to a prior registration
___ to request and/or be mailed all information

Birth name of adopted or surrendered person (if known) _____ Sex _____
(first) (middle) (last) (male or female)

Adoptive name of adopted or surrendered person (if known) _____
(first) (middle) (maiden if applicable) (last)

Place of birth: _____ Date of birth _____ Adoption finalized in _____
(city, state) (state) (county)

Name of birth mother: _____ Place of birth: _____
(first) (middle) (maiden if applicable) (last) (city) (state)

Name of birth father: _____ Place of birth _____
(first) (middle) (last) (city) (state)

Section B. COMPLETE WHEN OPTIONAL PHOTOGRAPH(S) ARE BEING FILED

Photograph(s) are included with this registration in an unsealed envelope no larger than 8½ x 11 and may be released to the person(s) specified in my Information Exchange Authorization. These photographs do not include identifying information pertaining to any person other than me.

written signature

Section C. COMPLETE WHEN OPTIONAL WRITTEN STATEMENT IS BEING FILED

A statement is included on the form provided and may be released to the person(s) specified in my Information Exchange Authorization. This statement does not include any identifying information pertaining to any person other than me.

written signature

Section D. CHECKLIST OF ITEMS BEING SUBMITTED

❑ **PART I - Check if this is an update to a prior registration**
A completed Medical Questionnaire that is authorized to be released to the registrant(s) specified (check one) ____ is not ____ being filed.

❑ **PART II - Check if this is a new registration.** (check one)
❑ $40 personal check or money order payable to the Illinois Department of Public Health **or**
❑ A completed Medical Questionnaire that is authorized to be released to registrant(s).

PART III - FOR ALL REGISTRATIONS - Check the applicable forms (items) being included.
❑ Medical Questionnaire
❑ Notarized Information Exchange Authorization
❑ Notarized Denial of Information Exchange
❑ Registration identification form
❑ Adoption Registry Application
 ❑ Optional picture(s)
 ❑ Optional written statement
❑ Photocopied proof of identification (always required)
❑ $40 fee
❑ Certified copy of the death certificate(s) of the common birth parent(s) (non-surrendered birth sibling only)
❑ Certified copy of the birth certificate of the adopted or surrendered person or non-surrendered birth sibling identified in Section A if he/she was NOT BORN IN THE STATE OF ILLINOIS
❑ Certified court order of guardianship if required by registration

THIS CHECKLIST IS IMPORTANT.
Use of the checklist enables you to verify the items included with this registration before mailing, and alerts our Registry staff to the total contents of the envelope.

VR161 (Rev. 05/2000) Illinois Department of Public Health, Division of Vital Records, 605 W. Jefferson St., Springfield, IL 62702-5097
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DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Illinois Department of Public Health
ILLINOIS ADOPTION REGISTRY APPLICATION
Section C - Optional written statement

This optional written statement is authorized for release as specified in Section C of the Adoption Registry Application. This statement is limited to the space (two pages) provided on this form and cannot include information that would identify any person other than the registrant submitting the statement. This written statement will be reviewed by registry staff to verify compliance with the law. Registry staff must remove prohibited identifying information or return the statement to the registrant for compliance. Please type, write clearly or print in dark blue or black ink. A lined and unlined page are provided for your convenience. Both pages may be used.

Illinois Department of Public Health, Division of Vital Records, 605 W. Jefferson St., Springfield, IL 62702-5097

DEPARTMENT OF PUBLIC HEALTH

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Illinois Department of Public Health
ILLINOIS ADOPTION REGISTRY APPLICATION
Section C - Optional written statement

This optional written statement is authorized for release as specified on Section C of the Adoption Registry Application. This statement is limited to the space / two pages provided on this form and cannot include information that would identify any person other than the registrant submitting the statement. This written statement will be reviewed by registry staff to verify compliance with the law. Registry staff must remove prohibited identifying information or return the statement to the registrant for compliance. Please type, write clearly or print in dark blue or black ink. A lined and unlined page are provided for your convenience. Both pages may be used.

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(Source: Amended at 24 Ill. Reg. 11882, effective JUL 19 2000)

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Section 500.ILLUSTRATION P Medical Questionnaire Form

Illinois Department of Public Health
ILLINOIS ADOPTION REGISTRY – MEDICAL QUESTIONNAIRE

If answering yes to any item, specify item number (for example A2, B4, etc.) and indicate self or family member

	Yes	No
A. CONGENITAL IMPAIRMENTS		
1. Club foot or other orthopedic problem	☐	☐
2. Cleft lip or cleft palate	☐	☐
3. Chromosome abnormality (explain)	☐	☐
4. Down's syndrome	☐	☐
5. Muscular dystrophy	☐	☐
6. Spina bifida	☐	☐
7. Congenital heart defect	☐	☐
8. Tay-Sachs disease	☐	☐
9. Fetal alcohol syndrome	☐	☐
10. Trisomy 21	☐	☐
11. Amniotic band syndrome	☐	☐
12. Hydrocephalus	☐	☐
13. Macrocephalus	☐	☐
14. Anencephalus	☐	☐
15. Microcephalus	☐	☐
16. Other (explain)	☐	☐
B. ALLERGIES		
1. Eczema or other skin condition	☐	☐
2. Hay fever or other allergy	☐	☐
3. Drug allergy (to what drugs?)	☐	☐
4. Other (explain)	☐	☐
C. EYE AND EAR DISORDERS		
1. Blindness, glaucoma, color blindness or other visual problems	☐	☐
2. Deafness or other ear problems	☐	☐
3. Other (explain)	☐	☐
D. BLOOD AND CIRCULATORY DISORDERS		
1. Hemophilia	☐	☐
2. Sickle cell anemia or trait	☐	☐
3. Anemia	☐	☐
4. Hypertension (high blood pressure)	☐	☐
5. Stroke	☐	☐
6. Heart attack	☐	☐
7. Arthritis	☐	☐
8. Kidney disease	☐	☐
9. Other (explain)	☐	☐
E. RESPIRATORY DISORDERS		
1. Asthma	☐	☐
2. Tuberculosis	☐	☐
3. Pneumonia	☐	☐
4. Cystic fibrosis	☐	☐
5. Bronchial pulmonary dysplasia	☐	☐
6. Other (explain)	☐	☐

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Illinois Department of Public Health
ILLINOIS ADOPTION REGISTRY – MEDICAL QUESTIONNAIRE

If answering "yes" to any item specify item number (for example, A2 B4 etc.) and indicate self or family member

	Yes	No
F HORMONAL DISORDERS		
1 Diabetes	☐	☐
2 Thyroid disorder	☐	☐
3 Other (explain)	☐	☐
G MENTAL AND BEHAVIORAL DISORDERS		
1 Schizophrenia	☐	☐
2 Manic depressive (bi polar)	☐	☐
3 Clinical depression	☐	☐
4 Substance abuse (addicted person or birth parent) (list type and explain)	☐	☐
5 Obsessive compulsive disorders	☐	☐
6 Eating disorders	☐	☐
7 Drug usage	☐	☐
8 Autism	☐	☐
9 Other (explain)	☐	☐
H MALIGNANT DISORDERS		
1 Cancer (specify site)	☐	☐
2 Tumors	☐	☐
3 Hodgkin's disease	☐	☐
4 Other (explain)	☐	☐
I NERVOUS SYSTEM DISORDERS		
1 Multiple sclerosis	☐	☐
2 Huntington's disease	☐	☐
3 Cerebral palsy	☐	☐
4 Seizures or convulsions	☐	☐
5 Epilepsy	☐	☐
6 Other (explain)	☐	☐
J INFECTIONS AND HOSPITALIZATION (explain)		
1 Repeated attacks of fever with known infection	☐	☐
2 Repeated severe infection requiring hospitalization	☐	☐
3 Hospitalizations or operations, if any	☐	☐
4 HIV/STDs (herpes, syphilis, etc.)	☐	☐
5 Hepatitis	☐	☐
6 Other (explain)	☐	☐
K DEVELOPMENTAL DELAYS		
1 Learning challenged	☐	☐
2 Mentally challenged	☐	☐
3 Physically challenged	☐	☐
4 Other (explain)	☐	☐
L OTHER IMPAIRMENTS, DISEASE OR DISORDERS (metabolic, genetic or other) [Including ALS (Lou Gehrig's disease), gout, obesity, etc.] (list and explain)	☐	☐

RELEASE: On the Information Exchange Authorization Form, the registrant may authorize the release of the information DISCLAIMER: The Illinois Department of Public Health cannot guarantee the accuracy of medical information extracted though the Adoption Registry as the information is submitted by the registrants, not the Department

Illinois Department of Public Health, Division of Vital Records 605 W. Jefferson St., Springfield, IL 62702 5097
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NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 24 Ill. Reg. 11882, effective JUL 19 2000)

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1) Heading of the Part: Illinois Water Well Construction Code

2) Code Citation: 77 Ill. Adm. Code 920

3)

Section Numbers:	Adopted Action:
920.60	Amendment
920.70	Amendment
920.90	Amendment
920.120	Amendment
ILLUSTRATION A	Amendment
ILLUSTRATION B	Amendment
ILLUSTRATION C	Amendment
ILLUSTRATION D	Amendment
ILLUSTRATION E	Amendment
ILLUSTRATION F	Amendment
ILLUSTRATION K	Amendment
ILLUSTRATION M	New Section

4) Statutory Authority: Authorized by and implementing the Illinois Water Well Construction Act [415 ILCS 30].

5) Effective Date of Amendments: August 1, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Date Notice of Proposed Rulemaking was Published in the Illinois Register: August 27, 1999 (23 Ill. Reg. 10115)

10) Has the Joint Committee on Administrative Rules issued a Statement of Objection to this rulemaking? No

11) Difference Between Proposal and Final Version: In Section 920.120(b)(3)(A), (B) and (C), the approved methods for sealing abandoned dug and bored wells was revised to read as follows:

Abandoned dug and bored wells shall be sealed by using one of the following methods:

A) Filling with disinfected clean pea gravel or limestone chips to within 20 feet below the top of the casing. The upper part of the well to where the well casing is removed shall be sealed for a minimum of 20 feet by filling with neat

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cement grout, any bentonite product manufactured for water well sealing, or impervious material such as clay. Concrete or cement may be used for such sealing, provided the upper part of the well is dry.

B) Placing a one foot layer of any bentonite product manufactured for water well sealing at the bottom of the well followed by alternating layers of agricultural limestone (limestone fines) and any bentonite product manufactured for water well sealing. The alternating layers of agricultural lime shall be five to seven feet thick and the alternating layers of any bentonite product manufactured for water well sealing shall be six inches thick. The uppermost or top layer shall be agricultural lime.

C) ~~Abandoned---wells---extending---only---into---unconsolidated formations-near-the-surface--can--be--sealed--by~~ Completely filling with concrete, cement grout, or impervious material such as clay (See Illustration K.)

Section 920.Illustration K was incorporated into the rulemaking at second notice and revised to reflect the changes made in Section 920.120(b)(3)(A), (B) and (C).

In addition, various nonsubstantive typographical, grammatical and technical changes were made in response to comments from the Joint Committee on Administrative Rules.

12) Have all the changes agreed upon by the agency and the Joint Committee been made as indicated in the agreements issued by the Joint Committee? All changes agreed upon by the Department and the Joint Committee have been made as indicated in the agreements issued by the Joint Committee.

13) Will the rulemaking replace an emergency rulemaking currently in effect? No

14) Are there any other amendments pending on this Part? No

15) Summary and Purpose of Amendments: Section 920.60. Amends grouting requirements for drilled wells constructed in unconsolidated formations to specify the size of the annular space that exists around the well casing and the minimum grouting depth. The amendment requires the bore hole to be three inches greater than the outer diameter of the casing or the coupling. Current rule requires a bore hole four inches greater than the inner diameter of the casing. This will allow a tremie pipe to be installed and allow additional space around the coupling to perform grouting. The amendment will require the casing to be grouted to a minimum depth of 60 feet or within 10 feet of the top of the screen when

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the top of the screen is less than 70 feet from ground level and all wells with less than 25 feet of casing grouted for a minimum of 15 feet from ground level. The current rule requires the entire length of casing be grouted. To ensure adequate grouting of the upper casing, the amendment also requires an oversize borehole to be constructed to a depth of between 10 to 20 feet when casing is installed by mechanically driving the casing.

Section 920.70. Amends grouting requirements for drilled wells constructed in consolidated formations to specify the size of the annular space that exists around the well casing and the minimum grouting depth. The amendment requires the bore hole to be three inches greater than the outer diameter of the casing or the coupling. Current rule requires a bore hole two inches greater than the inner diameter of the casing. This will allow a tremie pipe to be installed and provide additional space around the coupling to perform grouting. To ensure adequate grouting of the upper casing, the amendment also requires an oversize borehole to be constructed to a depth of between 10 to 20 feet when casing is installed by mechanically driving the casing.

Section 920.90. The amendment moves plastic well casing joint requirements to the appropriate subsection. The amendment establishes the procedures to follow when grout is applied through the casing or by means of a tremie pipe and the requirement to add additional grout whenever grout settles below the ground or pitless adapter.

Section 920.120. Establishes procedures for sealing abandoned dug and bored wells. A large number of abandoned dug and bored wells are being sealed each year and the current rule does not specifically address such procedures. The amendment also establishes the procedures to follow when buried slab bored wells are sealed. When these procedures are followed, it is not necessary to remove the buried slab prior to sealing.

Section 920.Illustration A. Clarifies the drill hole size, grouting and minimum casing depth requirements for drilled wells with oversized drill holes in unconsolidated formations in accordance with Section 920.60 as amended.

Section 920.Illustration B. Clarifies the drill hole size and grouting requirements for drilled wells with mechanically driven casing in unconsolidated formations in accordance with Section 920.60 as amended.

Section 920.Illustration C. Clarifies the drill hole size requirement for drilled wells in unconsolidated formations utilizing gravel wall construction in accordance with Section 920.60 as amended.

Section 920.Illustration D. Clarifies the drill hole size and depth of casing requirements for drilled water wells constructed in creviced formations and the earth cover is less than 30 feet thick in accordance

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with Section 920.70 as amended.

Section 920.Illustration E. Clarifies the drill hole size and grouting requirements for drilled wells in creviced formations and the earth cover is over 30 feet thick in accordance with Section 920.70 as amended.

Section 920.Illustration F. Clarifies the drill hole size and grouting requirements for drilled wells with mechanically driven casing in creviced formations in accordance with Section 920.70 as amended.

Section 920.Illustration K. Clarifies approved sealing materials and procedures for sealing abandoned dug or bored wells in accordance with Section 920.120(b)(3)(A), (B) and (C).

Section 920.Illustration M. Establishes requirements for sealing abandoned buried slab bored wells. Previously, there were no procedures for sealing such wells in a practical manner.

16) Information and questions regarding these adopted amendments shall be directed to:

Paul Thompson
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
(217) 782-2043
(rules@idph.state.il.us).

The full text of the adopted amendments begins on the next page:

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER r: WATER AND SEWAGE

PART 920
ILLINOIS WATER WELL CONSTRUCTION CODE

Section
920.10 Definitions
920.15 Incorporated or Referenced Materials
920.20 Scope
920.30 General Requirements
920.40 Design Factors
920.50 Location
920.60 Drilled Wells in Unconsolidated Formations
920.70 Drilled Well Construction in Consolidated Formations
920.80 Special Type Wells
920.90 Construction Materials and Other Requirements
920.100 Finishing and Testing
920.110 Modification of Wells
920.120 Abandoned Wells
920.130 Permit Requirements
920.140 Administrative Hearings
920.150 Designation of Agents of the Department
920.160 Issuance of Water Well Permits by Units of Local Government or Local Health Departments
920.170 Monitoring Wells
920.180 Closed-Loop Wells
920.190 Assurance of Potable Water Supply

TABLE A Steel Casing and Liner Pipe Weights and Dimensions
TABLE B Plastic Casing and Liner Pipe Specifications
ILLUSTRATION A Unconsolidated Formations: Oversized Drill Hole
ILLUSTRATION B Unconsolidated Formations: Mechanically Driven Casing
ILLUSTRATION C Gravel Pack Construction
ILLUSTRATION D Creviced Formations: Earth Cover Less Than 30 Feet Thick
ILLUSTRATION E Creviced Formations: Earth Mantle Cover Over 30 Feet Thick - Oversized Drill Hole
ILLUSTRATION F Creviced Formations: Earth Cover Over 30 Feet Thick - Mechanically Driven Casing
ILLUSTRATION G Bored or Dug Well - Well Not Finished With Buried Slab
ILLUSTRATION H Bored or Dug Well - Buried Slab Construction
ILLUSTRATION I Installation of a Driven Well
ILLUSTRATION J Sealing an Abandoned Well - Extending into a Creviced Formation
ILLUSTRATION K Sealing an Abandoned Dug or Bored Well
ILLUSTRATION L Sealing an Abandoned Well Extending into More Than One Water Bearing Formation

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ILLUSTRATION M Sealing an Abandoned Buried Slab Bored Well

AUTHORITY: Implementing and authorized by the Illinois Water Well Construction Code [415 ILCS 30].

SOURCE: Adopted September 12, 1973; amended at 2 Ill. Reg. 42, p.35, effective October 16, 1978; rules repealed, new rules adopted and codified at 7 Ill. Reg. 9633, effective August 1, 1983; amended at 12 Ill. Reg. 2990, effective January 13, 1988; amended at 13 Ill. Reg. 11796, effective July 1, 1989; amended at 14 Ill. Reg. 228, effective January 1, 1990; amended at 14 Ill. Reg. 14871, effective September 1, 1990; amended at 15 Ill. Reg. 18188, effective January 1, 1992; amended at 18 Ill. Reg. 17684, effective November 30, 1994; amended at 22 Ill. Reg. 3973, effective April 1, 1998; amended at 24 Ill. Reg. 11934, effective AUG 01 2000.

Section 920.60 Drilled Wells in Unconsolidated Formations

a) General. Unconsolidated formations such as sand and gravel may extend to or near the ground surface. Generally, however, they lie below the ground surface at varying depths and are covered by an overburden of earth. The kind, nature and depth of the overburden are factors in determining how a well shall be constructed.

b) Unconsolidated Formations.

1) When wells are constructed in unconsolidated formations, a casing shall be installed the entire depth of the formation. Such wells shall have a minimum of 20 feet of permanent casing. ~~Wells constructed in unconsolidated formations shall have a minimum of 20 feet of permanent casing installed.~~ When an oversized drill hole is constructed for the installation of the casing, the diameter of the drill hole shall be a minimum of 3 ~~4~~ inches greater than the outer ~~inner~~ diameter of the casing or coupling, whichever is greater. The tremie pipe shall be installed when the casing is installed. The casing shall be grouted to a minimum depth of 60 feet, or within 10 feet above the top of the screen when the top of the screen is less than 70 feet below ground level. All wells with less than 25 feet of casing shall be grouted for a minimum of 15 feet below ground level. If plastic well casing is installed, it shall be installed as required in Section 920.90(g). After the casing is installed, the annular space shall be grouted as provided in Section 920.90(h). (See Illustration A.)

2) When the casing is installed by mechanically driving the casing, ~~granulated bentonite shall be mounded around the casing while it is being driven or~~ an oversized hole shall be constructed to a depth of at least 10 but not more than 20 feet ~~sufficient~~ to allow removal of the drive nipple and installation of a joint of casing. While the casing is being driven, the bottom of the oversized hole shall be filled with granulated bentonite or

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natural clay mixture. After the casing is installed, the annular space that exists around the well casing shall be either grouted as required in Section 920.90(h) or, when the diameter of the oversized hole is a minimum of 3 ~~4~~ inches greater than the outer ~~inner~~ diameter of the casing or coupling, the annular space that exists around the well casing can be filled with natural clay. (See Illustration B.)

c) Gravel Pack Construction. When an over-sized drill hole is constructed to permit the placement of a gravel pack around the well screen, the diameter of the drill ~~drilled~~ hole shall be a minimum of 3 ~~4~~ inches greater than the outer ~~inner~~ diameter of the casing or coupling, whichever is greater. The annular opening between the casing and drill hole shall be grouted in accordance with Section 920.90(h). If a permanent outer casing is installed, it shall extend to a depth of at least 20 feet and the annular opening between the drill hole and the outer casing shall be grouted in accordance with Section 920.90(h). The annular opening between inner and outer casings shall be sealed at the top of the casing. The seal shall be made in such a manner as to prevent water or contaminants from entering the annular space between the inner and outer casing. If plastic well casing is installed, it shall be installed as required in Section 920.90(g). (See Illustration C.)

1) All gravel placed in the well shall be clean, washed and disinfected prior to placement or provisions made for disinfection in place.

2) Gravel refill pipes may be installed if they terminate above ground surface and are provided with watertight caps.

3) Wells designed for placement of an artificial gravel pack shall be provided with an adequate screen having openings sized on the basis of the grain size of the gravel. The well shall be developed to insure free entry of water without sediment.

(Source: Amended at 24 Ill. Reg. 11934, effective AUG 01 2000)

Section 920.70 Drilled Well Construction in Consolidated Formations

a) Creviced Formations - Drift or Earth Cover Less Than 30 Feet. A creviced or cracked formation, which is the upper bedrock formation and is overlain by a mantle of earth having a thickness less than 30 feet, shall be used as a source of groundwater supply when constructed by one of the following methods:

1) Where the drift or earth cover is less than 30 feet in thickness, the well casing shall extend to a depth of at least 40 feet below ground level. The diameter of the drill hole shall be a minimum of 3 ~~two~~ inches greater than the outer ~~inner~~ diameter of the casing or coupling, whichever is greater. The annular space shall be pressure grouted as provided for in Section 920.90(h).

If plastic casing is installed, it shall be installed in accordance with Section 920.90(g).

2) Where the well is drilled to obtain water from a lower formation the casing shall extend at least through the creviced formation and be seated in firm rock. The diameter of the drill hole through the creviced formation shall be a minimum of 3 ~~two~~ inches greater than the outer ~~inner~~ diameter of the casing or coupling, whichever is greater. The annular space shall be pressure grouted as provided in Section 920.90(h). When an outer casing is left in place, the annular space between the casings shall be pressure grouted and the annular opening around the outer casing shall be grouted in accordance with Section 920.90(h). If plastic casing is installed, it shall be installed in accordance with Section 920.90(g). (See Illustration D.)

b) Drift or Earth Cover Over 30 Feet in Thickness.

1) When an oversized drill hole is constructed for the installation of the casing, the diameter of the drill hole shall be a minimum of 3 ~~two~~ inches greater than the outer ~~inner~~ diameter of the casing or coupling, whichever is greater. The tremie pipe shall be installed when the casing is installed and casing grouted to a minimum depth of 60 feet. When the casing is less than 60 feet, the entire length of casing shall be grouted. When grout is pumped into the annular space through the inside of the casing, the diameter of the drill hole shall be a minimum of 2 inches greater than the outer diameter of the casing or coupling, whichever is greater. If plastic well casing is installed, it shall be installed as required in Section 920.90(g). After the casing is installed, the annular space shall be grouted as provided for in Section 920.90(h). (See Illustration E.)

2) When the casing is installed by mechanically driving the casing, ~~granulated--bentonite-shall-be-mounded-around-the-casing-while-it-is-being-driven-or~~ an oversized hole shall be constructed to a depth of at least 10 but not more than 20 feet ~~sufficient~~ to allow the removal of the drive nipple and installation of a joint of casing. While the casing is being driven, the bottom of the oversized hole shall be filled with granulated bentonite or natural clay mixture. After the casing is installed, the annular space that exists around the well casing shall be either grouted as required ~~provided--for~~ in Section 920.90(h) or, when the diameter of the oversized hole is a minimum of 3 ~~4~~ inches greater than the outer ~~inner~~ diameter of the casing or coupling, whichever is greater, the annular space that exists around the well casing can be filled with natural clay. (See Illustration F.)

c) Flowing Artesian Well. Initial drilling operations shall extend into but not through the formation confining the water. The casing shall be installed and the annular opening between drill hole and casing shall be pressure grouted in accordance with Section 920.90(h). If

plastic casing is installed, it shall be installed in accordance with Section 920.90(g). The hole shall then be extended into the artesian formation. Flow control from the well shall be provided by valved pipe connections, watertight pump connections, or receiving reservoirs set at an altitude corresponding to the artesian head.

(Source: Amended at 24 Ill. Reg. 11934, effective AUG 01 2000)

Section 920.90 Construction Materials and Other Requirements

a) Casing and Liner Pipe. In selection of casing and liner pipe, consideration shall be given to the stress to which the pipe will be subjected during construction and the corrosiveness of the water with which it comes in contact. Used or reject pipe shall not be used.

1) Steel well casing shall meet one of the following standards: American Society For Testing Materials (ASTM) A-53-93A or B, A-589-93, or American Petroleum Institute 5L, March, 1982 Edition and conform to the minimum standards given in Table A.

2) Plastic well casing and liners shall meet the requirements of ASTM Standard F480-94 and the NSF International Standard Number 14-1990, Plastic Piping System Components and Related Materials. Evidence of compliance shall be inclusion in the current NSF listing and display of the NSF seal on each section of casing, and marking the casing in accordance with the requirements of ASTM Standard F-480-94.

3) Plastic well casing and liners must be Standard Dimension Ratio (SDR) rated and conform to the minimum requirements given in Table B.

b) Outer Casing. Casing intended for construction purposes only shall be of weight and design as necessary to be watertight and permit installation without distortion or rupture to the specified depth and shall be removed upon completion of the well.

c) Joints. All casing and liner pipe joints shall be watertight. When the water well casing is to be extended, the joint shall be a threaded coupling or welded if the casing is metal, or the joint shall be solvent welded if the casing material is plastic. When plastic well casing is installed, the pipe spigot and socket shall be cleaned and treated with a cleaner primer. A pressurized connection shall be used when steel casing is used to extend plastic casing when the connection is within 20 feet of the ground surface. Other types of joints may be evaluated and approved by the Department.

d) Screens. Screen openings shall provide the maximum amount of open area consistent with strength of screen and the grading of the water bearing formation or gravel pack. The openings shall permit maximum transmitting ability without clogging or jamming. Screens shall be made of non-corrosive material.

e) Drive Shoe. Pipe that is to be driven shall be equipped with a drive shoe.

f) Grouting Guides. Casing that is to be pressure grouted in the drill hole or annular opening shall be provided with a centering shoe and shall have sufficient guides or centralizers to permit the unobstructed flow and deposition of the thickness of grout specified.

g) Plastic Casing Installations. ~~When plastic well casing is installed, the pipe spigot and socket shall be cleaned and treated with a cleaner primer. Other types of joints may be evaluated and approved by the Department.~~ There shall be no penetrations through the inner casing. A formation packer shall be installed just above the bottom of the casing. A coupling shall be cemented on the bottom of the casing to stabilize it in the hole. A steel nipple 5 to 10 feet long may be used on the bottom of the casing in lieu of the coupling. In rock wells, the casing shall be set into the firm rock a minimum of 3 feet to prevent leaking around the end of the casing. In areas where the water is obtained at the rock surface, the casing shall be set just above the rock.

h) Grouting. Procedures and materials for grouting shall be as follows:

1) Grout. Grout shall be bentonite grout, or neat cement grout as described in Section 920.10.

2) Application. When grouting through the inside of the casing, the ~~All~~ grouting shall be performed so that the grout fills ~~is placed from the bottom of~~ the annular opening ~~upward until the annular opening is filled or to the point of pitless adapter attachment~~ from the bottom to the surface. When grouting through a tremie pipe that is installed in the annular space, grout shall be pumped through the tremie pipe until grout completely fills the annular space to the surface. Bentonite, aquajel, or similar materials may be added to the annular opening in the manner indicated for grouting, prior to the cement grouting, to seal any small crevices or fissures and assure that the annular space is open. If the grout settles below the ground surface or the point of pitless adapter attachment, it is the responsibility of the water well contractor who constructed the well to grout from the depth of settling to the surface or the point of pitless adapter attachment. If the grout has settled, the annular space shall be grouted as required in Section 920.90(h). When the grout has settled less than 20 feet, the annular space can be grouted with bentonite chips.

3) Setting Time. Drilling operations shall not be resumed until the cement grout has set. Neat cement grout shall set for at least 48 hours. Setting time may be reduced from 48 hours by addition of manufacturers' approved chemicals and following manufacturers' recommendations for setting time. Bentonite grout shall set for a minimum of 1 hour from the start of placement of the grout at the bottom of the annular opening by Tremie Method or 1 hour after completion of grouting by other methods.

i) Plumbness and Alignment. The bore of the hole shall be sufficiently plumb and straight to receive the casing without binding. The casing shall be sufficiently plumb and straight so it will not interfere with installation and operation of the pump.

j) Construction Water. Water used in the drilling process shall be obtained from a source which will not result in contamination of the well. All such water shall be treated so as to maintain a free chlorine residual as an extra precaution.

(Source: Amended at 24 Ill. Reg. 11934, effective AUG 01 2000)

Section 920.120 Abandoned Wells

a) Abandonment of Wells.

1) The owner of a water well, boring, or monitoring well shall assure that such well is sealed within 30 days after it is abandoned and when the well is no longer used to supply water or is in such a state of disrepair that the well or boring has the potential for transmitting contaminants into an aquifer or otherwise threatens the public health or safety. The Department shall grant an extension of this time provided the owner submits a written request to the Department indicating the reasons for the request and an estimate of time in which the well will be either sealed or reused. In granting an extension, the Department must be assured that applicable protective measures will be taken and the methods and materials will be in compliance with the Act and this Part. Applicable protective measures may include ensuring that sources of contamination are down grade from the water source, ensuring isolation of the potential source of contamination in such a manner as to prevent a route of contamination of the ground water, or isolating the potential source of contamination to prevent accidental introduction of contaminants into ground water.

2) Water wells shall be sealed by a licensed water well driller pursuant to the Water Well and Pump Installation Contractor's License Act. An individual who is not so licensed may seal a well, provided the well is located on land which is owned or leased by such individual and is used by such individual for farming purposes or as such individual's place of abode and provided a request is made to the Department or local health department prior to the commencement of sealing indicating how the water well is to be sealed and the materials to be used. The Department or local health department shall grant approval when requested prior to the commencement of sealing if the methods and materials are in compliance with this Section.

b) Sealing Requirements. Where geologic data does not exist for a particular abandoned drilled water well, such water well shall be

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sealed, from the bottom up to where the well casing is removed, with neat cement grout or any bentonite product manufactured for water well sealing. Water wells, borings, or monitoring wells which are abandoned shall be disinfected by introducing a sufficient amount of chlorine to produce 100 parts per million of chlorine in the water in the well and shall be sealed by placing the sealing materials from the bottom of the well to the surface by methods that will avoid segregation or dilution of material in accordance with the following requirements:

1) Non-creviced, Consolidated formations. Wells extending into non-creviced sandstone, or other water bearing consolidated formations shall be sealed by filling the well with disinfected clean pea gravel or limestone chips to within 10 feet below the top of the water bearing formation or to within 10 feet of the bottom of the casing, whichever is less. Neat cement grout or any bentonite product manufactured for water well sealing shall be placed for a minimum of 20 feet above this point. The upper part of the well to where the well casing is removed shall be sealed by neat cement grout or any bentonite product manufactured for water well sealing. Concrete or cement may be used for such sealing, provided the upper part of the well is dry. (See Illustration J.)

2) Creviced formations. Wells extended into creviced formations shall be sealed by filling with disinfected clean pea gravel or limestone chips to within 10 feet below the top of the water bearing formation or to within 10 feet below the bottom of the casing whichever is less. Neat cement grout or any bentonite product manufactured for well sealing shall be placed for a minimum of 20 feet above this point. The upper part of the well to where the well casing is removed shall be sealed by neat cement grout or any bentonite product manufactured for water well sealing. Concrete or cement may be used for such sealing, provided the upper part of the well is dry. Where the earth cover is less than 30 feet, the hole shall be grouted from 10 feet below the creviced formation to where the well casing is removed. (See Illustration J.)

3) Unconsolidated formations. In the event the water bearing formation consists of coarse gravel and producing wells are located nearby, the well shall be sealed by filling with disinfected clean pea gravel or limestone chips to 10 feet below the top of water bearing formation. Neat cement grout or any bentonite product manufactured for water well sealing shall be placed for a minimum of 20 feet above this point. The upper part of the well to where the well casing is removed shall be sealed by neat cement grout or any bentonite product manufactured for water well sealing. Concrete or cement may be used for such sealing, provided the upper part of the well is dry. Abandoned dug and bored wells shall be sealed by using one of the following methods:

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A) Filling with disinfected clean pea gravel or limestone chips to within 20 feet below the top of the casing. The upper part of the well to where the well casing is removed shall be sealed for a minimum of 20 feet by filling with neat cement grout, any bentonite product manufactured for water well sealing, or impervious material such as clay. Concrete or cement may be used for such sealing, provided the upper part of the well is dry.

B) Placing a one foot layer of any bentonite product manufactured for water well sealing at the bottom of the well followed by alternating layers of agricultural limestone (limestone fines) and any bentonite product manufactured for water well sealing. The alternating layers of agricultural lime shall be five to seven feet thick and the alternating layers of any bentonite product manufactured for water well sealing shall be six inches thick. The uppermost or top layer shall be agricultural lime.

C) ~~Abandoned wells extending only into unconsolidated formations near the surface can be sealed by~~ Completely ~~completely~~ filing with concrete, cement grout, or impervious material such as clay. (See Illustration K.)

4) More than one water bearing formation. Where wells extend into more than one water bearing formation, each water bearing formation shall be sealed independently in the manner described in this Section. Neat cement grout or any bentonite product manufactured for water well sealing shall be placed a minimum of 10 feet above and below at all intermittent water bearing formations except artesian wells and artesian formations. Disinfected clean pea gravel or limestone chips shall be placed in each water bearing formation between plugs. When the lower formation has an upflow of water into the upper formation, a pressure seal is required to shut off the upflow while a neat cement plug at least 50 feet in length is pumped in place and allowed to set. The upper part of the well to where the well casing is removed shall be sealed with neat cement grout or any bentonite product manufactured for water well sealing. Concrete or cement may be used for such sealing provided the upper part of the well is dry. (See Illustration L.)

5) Artesian wells. In such wells, a cement retainer shall be used with pressure grouting equipment utilized to place cement grout. Neat cement grout bentonite or aquajel from 2% to 6% by dry weight shall be placed for a minimum of 10 feet below and 10 feet above the water bearing formation. The upper part of the well to where the well casing is removed shall be filled with neat cement grout or any bentonite product manufactured for water well sealing. Concrete or cement may be used for such sealing, provided the upper part of the well is dry.

6) Buried slab bored wells. Such wells shall be sealed by filling

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with disinfected clean pea gravel or limestone chips to within one foot below the buried slab. The upper part of the well to where the casing is removed shall be sealed with neat cement or any bentonite product manufactured for water well sealing.

7~~6~~) In lieu of filling the well with disinfected clean pea gravel or limestone chips as required in subsections (b)(1) through (6) ~~(5)~~ of this Section, wells may be sealed by grouting from the bottom up by using neat cement grout or any bentonite product manufactured for water well sealing. This material shall be applied the full depth of the well and shall terminate within 2 feet of the ground surface. Concrete grout may be used in the upper part of the well, provided the upper part of the well is dry.

c) Non-Producing well. Where a water well is drilled and a water bearing formation is not located, the water well shall be filled with clay, or neat cement containing bentonite, aquajel or similar materials from 2% to 6% by weight, or pure bentonite in any form by the water well driller not more than 10 calendar days after the well has been drilled.

d) The well casing or liner shall be removed to at least 2 feet below final grade, except where the well terminates with a concrete slab which is part of a building floor. Where the well terminates in a slab which is part of a building floor, the sealing material shall be placed flush with the floor. The pump and drop pipe shall be removed.

e) Notification.

1) The Department, approved local health department, or approved unit of local government shall be notified by telephone or in writing at least 48 hours prior to the commencement of any work to seal a water well or monitoring well.

2) When a water, boring or monitoring well is sealed, a sealing form shall be submitted to the Department or approved local health department by the individual performing the sealing not more than 30 days after the well is sealed. The following information shall be submitted on forms provided by the Department:

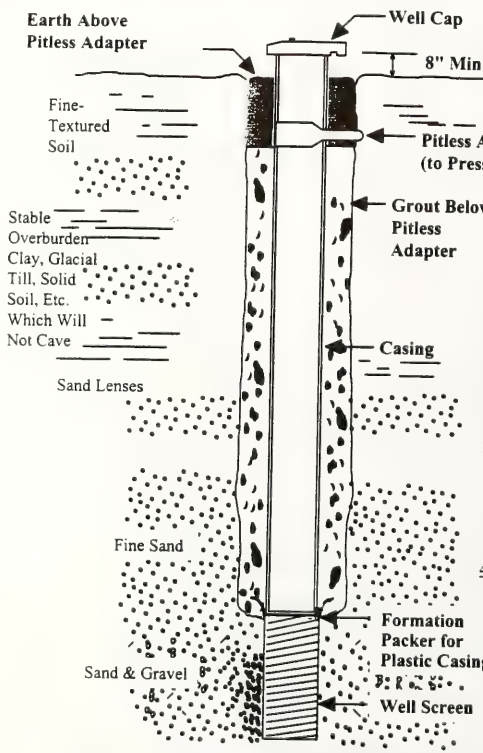
A) the date the water, boring or monitoring well was drilled;
B) depth and diameter of the water, boring or monitoring well;
C) location of the water, boring or monitoring well;
D) type of sealing method used;
E) original water well permit number if available;
F) date the water, boring or monitoring well was sealed;
G) type of water well (bored, dug, driven or drilled);
H) whether the formation is clear of obstructions;
I) casing record (explanation of the required removal); and
J) water well driller's license number and name.

(Source: Amended at 24 Ill. Reg. 11934, effective AUG 1 2000)

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NOTICE OF ADOPTED AMENDMENT(S)

Section 920.ILLUSTRATION A Unconsolidated Formations: Oversized Drill Hole



1. Diameter of drill hole must be ~~4~~ 3" larger than ~~inner~~ the outer diameter of ~~upper~~ the casing or coupling, whichever is greater.

2. Casing must extend a minimum of 20'.

3. Annular space that exists between hole and casing must be filled with bentonite grout or neat cement grout.

4. Casing must be grouted to a minimum depth of 60 feet or within 10 feet of the top of the screen when the top of the screen is less than 70 feet from ground level.

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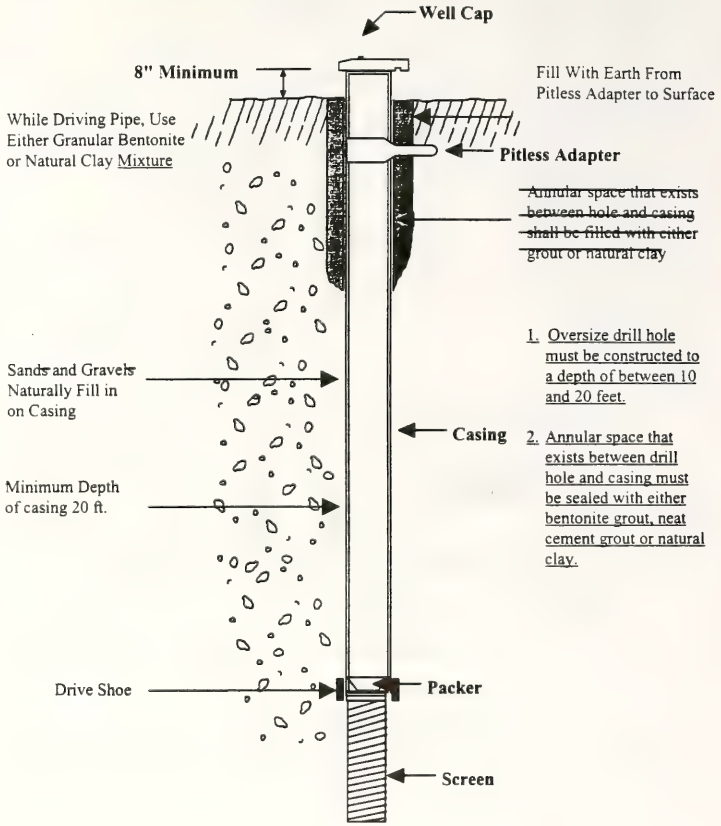
NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 24 Ill. Reg. 11934, effective AUG 01 2000)

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Section 920.ILLUSTRATION B Unconsolidated Formations: Mechanically Driven Casing



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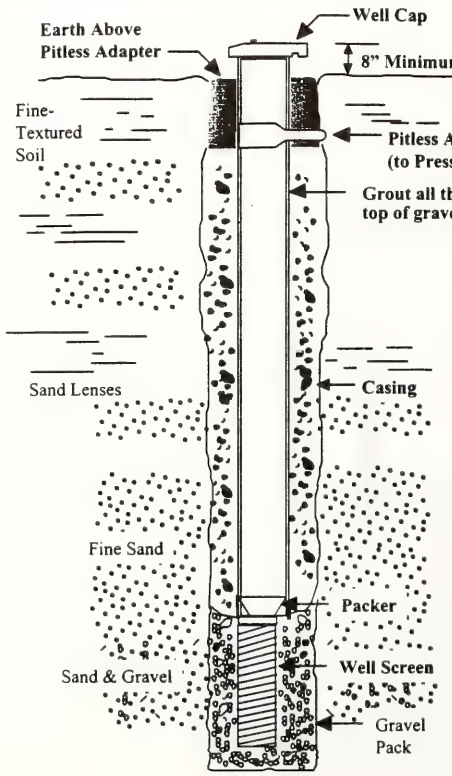
NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 24 Ill. Reg. ~~11934~~, effective AUG 01 2000)

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Section 920.ILLUSTRATION C Gravel Pack Construction



1. Diameter of drill hole must be ~~4~~ 3" larger than ~~inner~~ the outer diameter of ~~upper~~ the casing or coupling, whichever is greater.
2. Annular opening between drill hole and casing must be grouted.
3. Gravel must be clean, washed and disinfected before placing or disinfected in place.
4. Casing must extend a minimum of 20'.

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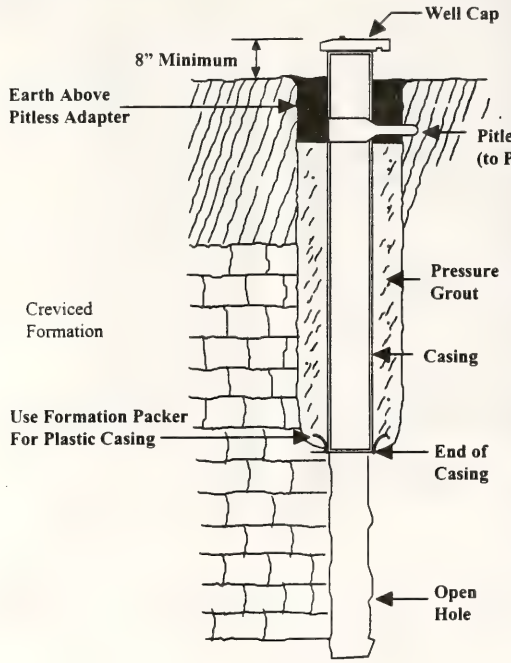
NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 24 Ill. Reg. ~~11934~~, effective AUG 11 2000)

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Section 920.ILLUSTRATION D Creviced Formations: Earth Cover Less Than 30 Feet Thick



1. Drill hole must be at least ~~2~~ 3" larger than ~~inner~~ outer diameter of casing or coupling whichever is greater.

2. Casing must extend through creviced formation and be seated in firm rock.

3. Annular space between drill hole and casing must be pressure grouted. A minimum of 40 feet of casing must be installed.

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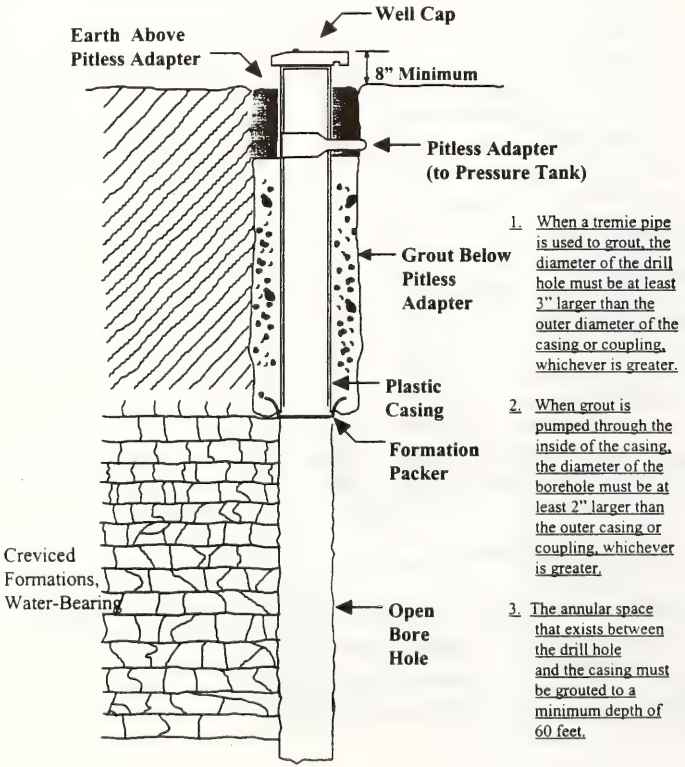
NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 24 Ill. Reg. 11934, effective AUG 01 2000)

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Section 920.ILLUSTRATION E Creviced Formations: Earth Mantle Cover Over 30 Feet Thick - Oversized Drill Hole



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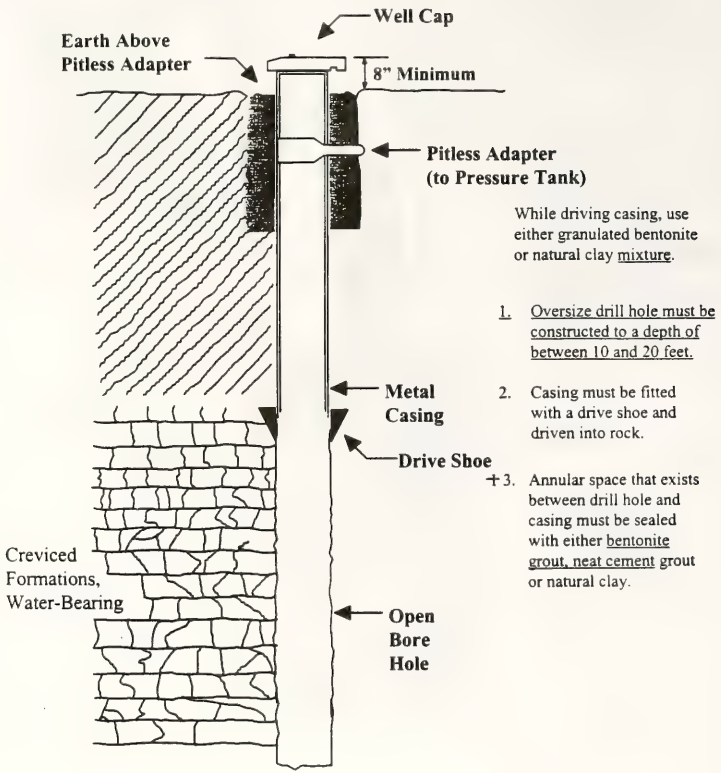
NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 24 Ill. Reg. ~~11934~~, effective AUG 01 2000)

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Section 920.ILLUSTRATION F Creviced Formations: Earth Cover Over 30 Feet Thick - Mechanically Driven Casing



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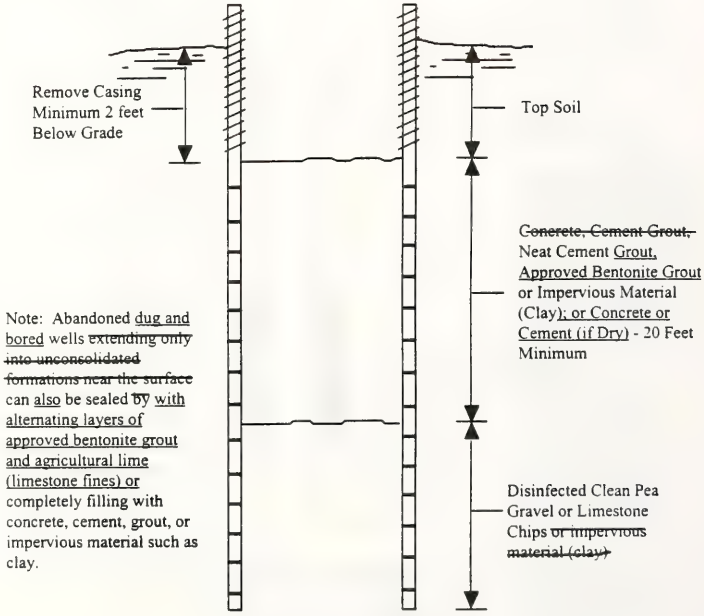
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(Source: Amended at 24 Ill. Reg. 11934, effective _____)

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Section 920.ILLUSTRATION K Sealing an Abandoned Dug or Bored Well



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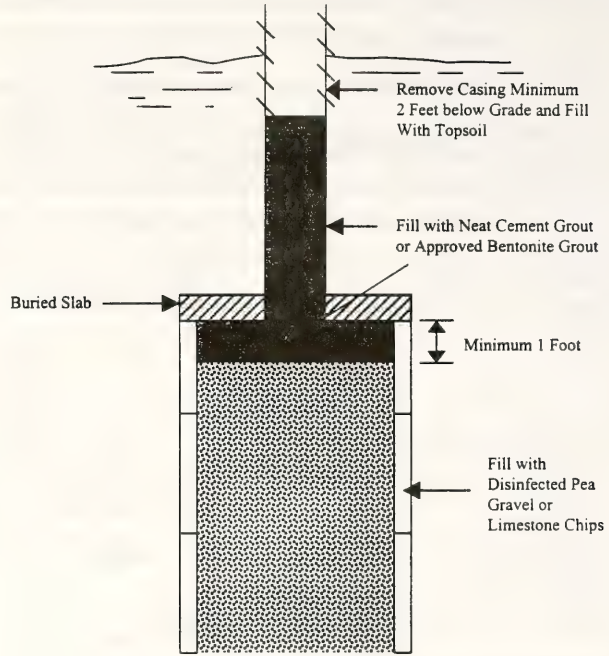
NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 24 Ill. Reg. 11934, effective AUG 01 2000)

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Section 920.ILLUSTRATION M Sealing an Abandoned Buried Slab Bored Well



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(Source: Added at 24 Ill. Reg. 11934, effective AUG 01 2000)

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1) Heading of the Part: Lawn Irrigation Contractor and Lawn Sprinkler System Registration Code

2) Code Citation: 77 Ill. Adm. Code 892

3)

Section Numbers:	Adopted Action:
180.10	New Section
180.20	New Section
180.30	New Section
180.40	New Section
180.50	New Section
180.60	New Section
180.70	New Section
180.80	New Section

4) Statutory Authority: Implementing and authorized by the Illinois Plumbing License Law [225 ILCS 320].

5) Effective Date of Rulemaking: July 27, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? Yes

8) A copy of the adopted rules, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: March 17, 2000, (24 Ill. Reg. 4158)

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version: In Sections 892.10, the definition of "installation" was revised to exclude final grading of the irrigation system site. In addition, various nonsubstantive typographical, and technical changes were made in response to comments from the Joint Committee on Administrative Rules.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? All changes agreed upon by the Department and the Joint Committee have been made as indicated in the agreements issued by the Joint Committee.

13) Will this rulemaking replace an emergency rulemaking currently in effect? Yes

14) Are there any amendments pending on this Part? No

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15) Summary and Purpose of Rulemaking: This rulemaking will implement a recent change to the Illinois Plumbing License Law. Public Act 91-678 (HB 539), which was signed into law on January 26, 2000, requires persons who install lawn sprinkler systems to register with the Department as irrigation contractors and to register their employees who install or supervise the installation of lawn sprinkler systems. A registered irrigation contractor is required to employ or contract with a specified number of licensed plumbers, depending on the number of registered irrigation employees working for the contractor. In addition, all lawn sprinkler systems that are installed in the state after the effective date of the law shall be registered with the Department by the irrigation contractor or licensed plumber responsible for the installation. The rules specify procedures for reporting changes in registered irrigation employees and inspection, testing and registration fees for irrigation contractors. In addition, the rules specify the forms that irrigation contractors should obtain from the Department to complete the registration process.

16) Information and questions regarding these adopted rules shall be directed to:

Paul Thompson
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-2043 (rules@idph.state.il.us)

The full text of the adopted rules begins on the next page:

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER r: WATER AND SEWAGE

PART 892
LAWN IRRIGATION CONTRACTOR AND LAWN SPRINKLER SYSTEM REGISTRATION CODE

Section
892.10 Definitions
892.20 Registration Requirements for Irrigation Contractors
892.30 Licensed Plumbers Responsible for Installation of Lawn Sprinkler System
892.40 Waiver of Licensed Plumber Requirement
892.50 Inspection, Testing, and Registration of Lawn Sprinkler Systems
892.60 Civil Penalties for Unregistered Irrigation Contractors
892.70 Fees for Irrigation Contractors
892.80 Expiration of Registration Program

AUTHORITY: Authorized by and implementing the Illinois Plumbing Licence Law [225 ILCS 320].

SOURCE: Emergency rules adopted at 24 Ill. Reg. 4224, effective March 1, 2000, for a maximum of 150 days; adopted at 24 Ill. Reg. 11964, effective JUL 27 2000.

Section 892.10 Definitions

In this Part:

"Installation" means:

fabrication of a lawn sprinkler system using components that include piping, fittings, valves, sprinkler heads, and pumps;

replacement, repair, alteration, or maintenance of lawn sprinkler system components; or

lawn sprinkler system site preparation, including digging, trenching and vibratory plow operation.

"Irrigation contractor" means a person, other than a licensed plumber or licensed apprentice plumber, who installs or supervises the installation of lawn sprinkler systems subject to Section 2.5 of the Illinois Plumbing License Law. (Section 2 of the Law)

"Irrigation employee" means a person, other than a licensed plumber or licensed apprentice plumber, who is employed by an irrigation contractor or a licensed plumber and who installs or supervises the

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installation of lawn sprinkler systems subject to Section 2.5 of the Illinois Plumbing License Law.

"Law" means the Illinois Plumbing License Law [225 ILCS 320].

"Lawn sprinkler system" means any underground irrigation system of lawn, shrubbery and other vegetation from any potable water sources; and from any water sources, whether or not potable, in any county with a population of 3,000,000 or more; any county with a population of 275,000 or more which is contiguous in whole or in part to a county with a population of 3,000,000 or more; or any county with a population of 37,000 or more but less than 150,000 which is contiguous to 2 or more counties with respective populations in excess of 275,000. "Lawn sprinkler system" includes without limitation the water supply piping, valves, and sprinkler heads or other irrigation outlets, but does not include the backflow prevention device or final connection of the lawn sprinkler system to the backflow prevention device. "Lawn sprinkler system" does not include an irrigation system used primarily for agricultural purposes. (Section 2 of the Law) *"Lawn sprinkler system" does not include extension, relocation, or modification of up to 200 linear yards of an existing lawn sprinkler system installed at a golf course prior to January 26, 2000.* (Section 2.6 of the Law)

Section 892.20 Registration Requirements for Irrigation Contractors

a) Irrigation Contractor Registration. Subject to Section 16.1 of the Law, each irrigation contractor doing business in Illinois shall register annually with the Department. Registration shall be submitted on forms available from the Department and shall include the following information:
 1) The irrigation contractor's full name, date of birth, height, weight, home telephone number; business name, full address of the business, business telephone and fax numbers, name of principal, Federal Employer Identification Number (FEIN); whether the business is a sole proprietorship, partnership, or corporation; and the name of the registered agent, if the contractor is a corporation.
 2) The names and license numbers of all licensed plumbers that the irrigation contractor employs or with whom the irrigation contractor enters into a contract for lawn sprinkler connection and inspection services (see Section 892.40).
 3) A licensed plumber who is also in the business of lawn sprinkler system installation shall register annually as an irrigation contractor, if the licensed plumber employs persons other than licensed plumbers or licensed apprentice plumbers to install or provide on-site supervision for the installation of lawn sprinkler systems.

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b) Irrigation Employee Registration. Subject to Section 16.1 of the Law, each irrigation contractor doing business in Illinois shall register annually with the Department all irrigation employees who install or provide on-site supervision for the installation of lawn sprinkler systems.
 1) Registration shall be submitted on forms available from the Department and shall include each irrigation employee's full name, home address, home phone, date of birth, height, and weight; and the employer's name, business name, address, telephone number, and irrigation contractor registration number.
 2) Upon request, the irrigation contractor shall provide to the Department additional business information, including payroll records, time sheets, and W2 forms. The Department may request this information if necessary to determine the irrigation contractor's compliance with the registration requirements of this subsection (b).
c) Registration Expiration and Renewal. All registrations issued under this Section shall expire on February 28 of each year, except initial registrations issued after January 15 shall expire one year after the next February 28. Registration may be renewed for a period of one year from each succeeding March 1 upon submission by the irrigation contractor of new contractor and employee registration forms and fee payment prior to that March 1.
d) Reporting Changes in Registration. Irrigation contractors shall report to the Department when registered irrigation employees are no longer employed by the contractor and when new employees are hired.
 1) The irrigation contractor shall submit a notice of cancellation of employee, accompanied by a nonrefundable $10 fee, to the Department within 10 days after a registered irrigation employee is terminated. A notice of cancellation is not required for registered employees who are terminated in the period on or after January 31 and before February 28 of the same year.
 2) After the contractor's initial or renewal registration has been submitted to the Department, the irrigation contractor shall submit an irrigation employee registration application form to the Department before any additional employees are hired.
 3) When the addition of irrigation employees places the irrigation contractor in a category that requires a higher fee and additional licensed plumbers, the irrigation contractor shall submit the difference in the fee amount between the 2 categories and the names and license numbers of additional licensed plumbers to the Department. Fee payment and the information required shall be submitted before additional employees are allowed to install lawn sprinkler systems.

Section 892.30 Licensed Plumbers Responsible for Installation of Lawn Sprinkler System

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Irrigation contractors shall employ or enter into a contract with one or more licensed plumbers, who shall be responsible for the installation of every lawn sprinkler system installed after the effective date of this Part, according to the following:

a) A licensed plumber shall inspect every sprinkler system installed by an irrigation contractor to ensure that the provisions of the Act have been met and that the system works mechanically.

b) A licensed plumber shall make the physical connection between a sprinkler system and a backflow prevention device.

c) A licensed plumber shall also make the connection between a lawn sprinkler system and a backflow prevention device at a golf course.

Number of Employees Authorized to Install or Supervise the Installation of Lawn Sprinkler Systems	Number of Licensed Plumbers Employed or Contracted with by Irrigation Contractor
7 or less	at least 1
8 - 12	at least 2
13 - 20	at least 3
21 - 28	at least 4
29 - 35	at least 5
36 or more	at least 6

Section 892.40 Waiver of Licensed Plumber Requirement

A written request for a temporary waiver shall be submitted to the Department when the number of licensed plumbers employed by the irrigation contractor or with whom the contractor has a contractual agreement for the installation or inspection of lawn sprinkler systems is below the number of licensed plumbers required in Section 892.30.

a) The written waiver request shall specify the steps taken by the irrigation contractor to maintain the required number of licensed plumbers. A waiver will not be issued unless the irrigation contractor provides documentation of the steps taken to employ or contract with the required number of licensed plumbers. This information shall include one or more of the following items:

1) Copy of advertising by the irrigation contractor soliciting the services of licensed plumbers.

2) Copies of letters to unions, trade organizations or other groups that represent plumbers, requesting referral of licensed plumbers to the irrigation contractor.

3) Copies of letters to plumbing contractors soliciting the services of licensed plumbers.

4) Copies of responses to the irrigation contractor from the organizations and businesses contacted by the irrigation contractor to obtain the services of licensed plumbers.

b) The waiver request shall be submitted within 10 days after the number of licensed plumbers goes below the number required for the irrigation contractor, as specified in Section 892.30.

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c) The Department shall review the waiver request and notify the contractor if approval of the waiver request is issued.

d) A temporary waiver shall be granted for a period not to exceed 3 consecutive months after the date the waiver is issued.

1) Upon expiration of the initial temporary waiver, the irrigation contractor may apply for an extension of the waiver, which shall not exceed an additional 3 months.

2) In no case shall a temporary waiver be granted to an irrigation contractor for more than a total of 6 months in a two-year period.

e) In no case shall an irrigation contractor be relieved of the responsibility for ensuring that a licensed plumber shall inspect every sprinkler system installed by an irrigation contractor to ensure that the provisions of the Act have been met and that the system works mechanically. In no case shall an irrigation contractor be relieved of the responsibility for ensuring that a licensed plumber makes the physical connection between a sprinkler system and the backflow prevention device.

f) An irrigation contractor to whom a waiver has been issued may request the services of a State plumbing inspector to inspect a lawn irrigation system after installation has been completed. A non-refundable fee of $250 will be charged for inspection services by a State plumbing inspector.

Section 892.50 Inspection, Testing, and Registration of Lawn Sprinkler Systems

All lawn sprinkler systems installed in Illinois on or after the effective date of this rulemaking shall be registered with the Department on forms provided by the Department.

a) Inspection and Testing of Lawn Sprinkler Systems. Upon completion of installation of a lawn sprinkler system, a licensed plumber representing the irrigation contractor shall inspect and test the system to ensure that the provisions of Section 2.5 of the Law have been met and that the system works mechanically. The property owner or a representative shall witness the inspection and testing. Any defects in the installation determined during the inspection and testing shall be corrected before the test is considered complete.

b) *No person shall attach to a lawn sprinkler system any fixture intended to supply water for human consumption. No person shall attach to a lawn sprinkler system any fixture other than the backflow prevention device, sprinkler heads, valves, and other parts integral to the operation of the system, unless the fixture is clearly marked as being for non-potable use only.* (Section 2.5(e) of the Law)

c) Registration of Lawn Sprinkler Systems. The contractor's test certificate provided by the Department shall be submitted by the irrigation contractor or licensed plumber responsible for the installation of the lawn sprinkler system within 30 days after

completion of the inspection and test and shall include all of the following information:

1) Name of owner of property at which lawn sprinkler system is located, address of property, date installation was completed.
2) Information on the installation of lawn sprinklers:
 A) Make, model, and quantity of sprinklers installed.
 B) Static pressure.
 C) Gallons per minute (gpm) per largest zone.
 D) Water source (public water system, well, other water source, such as a pond).
 E) Type of pipe used in installation (copper, PVC, polyethylene).
 F) manufacturer; type, and size of pump used in installation.
 G) Type, size, serial number and date inspected of backflow prevention device (RPZ valve) to which the lawn sprinkler system is connected.
3) Name, registration number, and signature of the irrigation contractor or licensed plumber responsible for the installation of the lawn sprinkler system.
4) Name and license number of the licensed plumber responsible for the physical connection between the lawn sprinkler system and the backflow prevention device.
5) Date the lawn sprinkler system was inspected by a licensed plumber to ensure compliance with the Illinois Plumbing License Law [225 ILCS 320] and Illinois Plumbing Code (77 Ill. Adm. Code 890).

d) A $15 nonrefundable registration fee shall be submitted with each registration of a lawn sprinkler system.

Section 892.60 Civil Penalties for Unregistered Irrigation Contractors

a) A person who practices, offers to practice, or holds himself or herself out to practice as an irrigation contractor without being registered under the provisions of the Act shall be issued a civil penalty under the following criteria:
 1) First Offense
 A) Where no violations of the Illinois Plumbing Code (77 Ill. Adm. Code 890) are found, the person:
 i) Shall pay a civil penalty of $1000.
 ii) May be referred to the State's Attorney of the County or Attorney General for prosecution under Section 29 of the Act.
 B) Where violations of the Illinois Plumbing Code are found, the person:
 i) Shall pay a civil penalty of $3000. This amount may be reduced to $1,000 upon the condition that the unregistered person pays for a licensed plumber to correct the violations of the Illinois Plumbing Code. The licensed plumber correcting the violations must be acceptable to the other party to the original contract or agreement.
 ii) May be referred to the State's Attorney of the County or Attorney General for prosecution under Section 29 of the Act.
 2) Second Offense
 A) Where no violations of the Illinois Plumbing Code are found, the person:
 i) Shall pay a civil penalty of $3000.
 ii) May be referred to the State's Attorney of the County or Attorney General for prosecution under Section 29 of the Act.
 B) Where violations of the Illinois Plumbing Code are found, the person:
 i) Shall pay a civil penalty of $5,000. This amount may be reduced to $3000 upon the condition that the unregistered person pays for a licensed plumber to correct the violations of the Illinois Plumbing Code. The licensed plumber correcting the violations must be acceptable to the other party to the original contract or agreement.
 ii) May be referred to the State's Attorney of the County or Attorney General for prosecution under Section 29 of the Act.
 3) Third and Subsequent Offenses. The person:
 A) Shall pay a civil penalty of $5000.
 B) Shall be referred to the State's Attorney of the County or Attorney General for prosecution under Section 29 of the Act.

b) A registered irrigation contractor, firm, corporation, partnership, or association, who directs, authorizes or allows a person to practice, offer to practice, attempt to practice, or hold himself or herself out to practice as an irrigation employee without being registered under the provisions of the Act, shall be issued a civil penalty under the following criteria:
 1) First Offense. The person:
 A) Shall pay a civil penalty of $5000.
 B) Shall be required to pay for a licensed plumber to correct any violations of the Illinois Plumbing Code. The licensed plumber correcting the violations must be acceptable to the other party to the original contract or agreement.
 C) Shall have his or her plumbing license suspended.
 D) May be referred to the State's Attorney of the County or Attorney General for prosecution under Section 29 of the Act.
 2) Second Offense. The person:
 A) Shall pay a civil penalty of $5000.

 B) Shall be required to pay for a licensed plumber to correct any violations of the Illinois Plumbing Code. The licensed plumber correcting the violations must be acceptable to the other party to the original contract or agreement.
 C) Shall have his or her plumbing license suspended.
 D) May be referred to the State's Attorney of the County or Attorney General for prosecution under Section 29 of the Act.
 3) Third and Subsequent Offenses. The person:
 A) Shall pay a civil penalty of $5000.
 B) Shall be referred to the State's Attorney of the County or Attorney General for prosecution under Section 29 of the Act.

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B) Shall be required to pay for a licensed plumber to correct any violations of the Illinois Plumbing Code. The licensed plumber correcting the violations must be acceptable to the other party to the original contract or agreement.
C) Shall have his or her plumbing license revoked.
D) Shall be referred to the State's Attorney of the County or Attorney General for prosecution under Section 29 of the Act.

Section 892.70 Fees for Irrigation Contractors

The following non-refundable annual registration fees shall be submitted to the Department by each registered irrigation contractor:

Number of Employees Authorized to Install or Supervise the Installation of Lawn Sprinkler Systems	Annual Fee for Irrigation Contractor Registration
7 or less	$300
8 - 12	$600
13 - 20	$900
21 - 28	$1200
29 or more	$1500

Section 892.80 Expiration of Registration Program

This Part and the registrations issued under this Part are subject to expiration January 1, 2003, as provided under Section 2.5 of the Law.

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1) Heading of the Part: Lead Poisoning Prevention Code

2) Code Citation: 77 Ill. Adm. Code 845

3)

Section Numbers:	Adopted Action
845.10	Amendment
845.12	Amendment
845.20	Amendment
845.23	Amendment
845.26	Amendment
845.27	Amendment
845.28	Amendment
845.30	Amendment
APPENDIX F	Amendment

4) Statutory Authority: Authorized by and implementing the Lead Poisoning Prevention Act. [410 ILCS 45]

5) Effective Date of amendments: August 1, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Date Notice of Proposed Amendments was published in the Illinois Register: August 6, 1999 (23 Ill. Reg. 8775)

10) Has the Joint Committee on Administrative Rules issued a Statement of Objection to this rulemaking? No

11) Difference between proposal and final version: Various nonsubstantive typographical, grammatical and technical changes were made in response to comments from the Joint Committee on Administrative Rules.

12) Have all the changes agreed upon by the agency and the Joint Committee been made as indicated in the agreements issued by the Joint Committee? All changes agreed upon by the Department and the Joint Committee have been made as indicated in the agreements issued by the Joint Committee.

13) Will the rulemaking replace an emergency rulemaking currently in effect? No

14) Are there any other amendments pending on this Part? No

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15) Summary and Purpose of amendments: The rules governing lead poisoning prevention activities are amended to implement a statutory change to the reporting requirements for clinical laboratories with respect to positive and negative blood lead test results. The revision allows negative results to be grouped and reported 30 days after the last day of the month in which the laboratory receives verification of the blood lead level. Positive results have to be reported within 48 hours. Requirements are clarified for inspection of dwellings based upon persistently high blood lead levels in a child. Other revisions will clarify Department policy concerning training requirements for lead inspectors, risk assessors, supervisors and workers, and approval criteria for training course providers. Also, new federal standards for environmental lead levels on horizontal and vertical structural surfaces are being incorporated into the rules.

16) Information and questions regarding these adopted amendments shall be directed to:

Paul Thompson
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
(217) 782-2043
(rules@idph.state.il.us).

The full text of the adopted amendments begins on the next page:

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NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER p: HAZARDOUS AND POISONOUS SUBSTANCES

PART 845
LEAD POISONING PREVENTION CODE

Section
845.10 Definitions
845.12 Incorporated Materials
845.15 Lead Screening
845.20 Reporting
845.21 Provision of Data
845.23 Laboratory Fees for Blood Lead Screening
845.25 Case Follow-Up
845.26 Inspection of Dwellings, Residential Buildings or Child Care Facilities
845.27 Requirements for Lead Inspector, Risk Assessor, Worker, Supervisor, and Contractor Licensing
845.28 Approval of Training Program Providers
845.29 Safety Guidelines for Workers Removing or Covering Leaded Soil
845.30 Mitigation or Abatement of Lead Hazards
845.31 Lead Abatement Contractor Responsibilities
845.32 Lead Contractor/Supervisor Responsibilities
845.33 Dwellings Not Requiring Abatement or Mitigation
845.40 Approval of Units of Local Government or Health Departments as Delegate Agencies to Administer and Enforce the Lead Poisoning Prevention Act
845.50 Permissible Limits of Lead in and about Dwellings, Residential Buildings or Child Care Facilities
845.60 Placarding of Dwellings (Repealed)
APPENDIX A Instructions for Childhood Blood Lead Poisoning Reporting System
EXHIBIT A Instructions for Completing the Laboratory Based Report of Childhood Lead Poisoning
EXHIBIT B Instructions for Submitting Follow-Up Data for Children With Blood Lead Levels $\geq$ 15 mcg/dL
EXHIBIT C Instructions for Reporting Information by Delegate Agencies on Environmental Inspection for Cases of 20 mcg/dl and Above (Repealed)
APPENDIX B Testing for Lead in Paint by Portable X-Ray Fluorescence Lead in Paint Analyzer (XRF) (Repealed)
APPENDIX C Diagrams of Building Components
ILLUSTRATION A Inspection Forms and Diagram of Building Components (Repealed)
APPENDIX D Recommended Setup and Use of a Negative Pressure System
ILLUSTRATION A Examples of Negative Pressure Systems
APPENDIX E Soil Sampling

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APPENDIX F Childhood Lead Risk Assessment Questionnaire
APPENDIX G Information Agreement
APPENDIX H Childhood Lead Poisoning Assessment and Screening Algorithm

AUTHORITY: Authorized by and implementing the Lead Poisoning Prevention Act [410 ILCS 45].

SOURCE: Adopted July 15, 1976; amended at 2 Ill. Reg. 43, effective October 23, 1978; rules repealed; new rules adopted and codified at 6 Ill. Reg. 14849, effective November 24, 1982; amended at 7 Ill. Reg. 7652, effective June 14, 1983; amended at 8 Ill. Reg. 8242, effective May 25, 1984; amended at 10 Ill. Reg. 5138, effective April 1, 1986; amended at 17 Ill. Reg. 1884, effective February 1, 1993; amended at 19 Ill. Reg. 238, effective December 31, 1994; amended at 21 Ill. Reg. 7444, effective May 31, 1997; emergency amendment at 21 Ill. Reg. 14680, effective October 31, 1997, for a maximum of 150 days; emergency amendment modified in response to JCAR objection at 22 Ill. Reg. 6252; amended at 22 Ill. Reg. 16000, effective August 20, 1998; amended at 24 Ill. Reg. 11974, effective AUG 01 2000.

NOTE: In this Part, unless the context clearly indicates otherwise, superscript numbers or letters are denoted by parenthesis; subscript are denoted by brackets.

Section 845.10 Definitions

"Act" means the Lead Poisoning Prevention Act [410 ILCS 45].

"Assessment" means administration of the risk assessment questionnaire to the parent.

"Chemical Spot Test" means the use of sodium rhodizonate to obtain a qualitative determination of lead.

"Child" means a person under the age of 16.

"Child Care Facility" means any structure used by a child care provider licensed by the Department of Children and Family Services or public school structure frequented by children under 6 years of age. (Section 2 of the Act)

"Compliance Sampling" means the activity of taking dust wipe samples after completion of mitigation or abatement activities, for the purpose of determining compliance with the Department's standard for lead dust levels or horizontal surfaces of less than 200 micrograms per square foot.

"Confirmed blood lead level" means that an elevated blood lead level is confirmed by a venous blood lead test.

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"Defective Surface" means peeling, flaking, chalking, scaling or chipping paint; paint over crumbling, cracking or falling plaster or plaster with holes in it; paint over a defective or deteriorating substrate; or paint that is damaged or worn down in any manner such that a child can get paint from the damaged area.

"Delegate Agency" means a unit of local government or health department approved by the Department to carry out the provisions of the Lead Poisoning Prevention Act. (Section 2 of the Act)

"Department" means the Department of Public Health of the State of Illinois. (Section 2 of the Act)

"Director" means the Director of the Department of Public Health of the State of Illinois.

"Dwelling" means any structure all or part of which is designed or used for human habitation. (Section 2 of the Act)

"Dwelling Risk Assessment" means an on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards and the provision of a report, by the individual or the firm conducting the risk assessment, explaining the results of the investigation and options for reducing lead-based paint hazards.

"Elevated results" means a blood lead test result of 10 micrograms/deciliter or higher.

"Encapsulant" means any liquid applied product which covers, seals, or encapsulates a lead-based painted surface in a manner which is designed to reduce human exposure to lead.

"Exposed Surface" means any interior or exterior surface of a dwelling or residential building. (Section 2 of the Act)

"Health Care Provider" means any person providing health care services to children, who is authorized pursuant to the Clinical Laboratory Act to request the testing of specimens, but does not include dentists. "Health Care Provider" includes podiatrists and physicians other than those licensed to practice medicine in all its branches.

"HEPA Vacuum Equipment" means vacuuming equipment with a high efficiency particulate air filter capable of trapping and retaining 99.97 percent of particles greater than 0.3 micrometers in mass median aerodynamic equivalent diameter.

"Inspection" means a surface-by-surface investigation to determine the presence of lead-based paint and the provision of a report explaining

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the results of the investigations.

"Intact surface" means a surface with no loose, peeling, chipping or flaking paint. Intact surfaces that are painted must be free from crumbling, cracking or falling plaster and should not have any holes. Intact surfaces must not be damaged or worn down in any way that would make paint from the damaged area accessible to children.

"Lead Abatement" means any activity that will result in the removal of windows, walls, floors, ceilings or exterior surfaces which may result in the creation of a hazardous level of leaded chips, flakes, dust or any other form of leaded substance that can be ingested or inhaled during such activity.

"Lead Abatement Supervisor" means any person employed by a lead abatement contractor and licensed by the Department to perform lead abatement and mitigation, and supervise lead abatement workers who perform lead abatement and mitigation. ("Lead Abatement Supervisor" was formerly called "Lead Abatement Contractor/Supervisor".)

"Lead Bearing Substance" means any dust on surfaces or in furniture or other nonpermanent elements of the dwelling and any paint or other surface coating material containing more than five-tenths of one percent (0.5%) lead by weight (calculated as lead metal) in the total nonvolatile content of liquid paint. The term "lead bearing substance" also includes *lead bearing substances containing greater than one milligram per square centimeter or any lower standard for lead content in residential paint as may be established by federal law or regulation; or more than 1 milligram per square centimeter in the dried film of paint or previously applied substance; or object containing lead in excess of the amount specified in* this Part *or a lower standard for lead as may be established by federal regulation.* (Section 2 of the Act)

"Lead Hazard" means a lead bearing substance that poses an immediate health hazard to humans. (Section 2 of the Act)

"Lead Inspector" means an individual who has been trained by a Department approved training program to conduct inspections, sample for the presence of lead in dust and soil, and conduct abatement clearance testing.

"Lead Management Plan" means a written statement that describes how an intact surface with lead-based paint will be monitored to assure that, if the intact surface becomes defective, the defective surface will be abated or mitigated.

"Lead Mitigation" means the remediation of a lead hazard so that the

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lead bearing substance does not pose an immediate health hazard to humans. A lead hazard is deemed to have been mitigated if the surface that is the source of the lead hazard is no longer in a condition that produces a hazardous level of leaded chips, flakes, dust or any other form of leaded substances, that can be ingested or inhaled by humans; or if the leaded surface is accessible to children, the surface coating is covered or the access to the leaded surface by children is otherwise prevented.

"Lead Poisoning" means the conditions of having blood lead levels in excess of those considered safe under this Part (see "permissible limits") *and federal rules and regulations.* (Section 2 of the Act)

"Lead Risk Assessor" means an individual who has been trained by a Department approved training program to conduct risk assessments, sample for the presence of lead in dust and soil and conduct abatement clearance testing.

"Local Health Department" means the health department or board of health as recognized by the Department which has jurisdiction over the particular geographical area in which the person lives.

"Major Lead Abatement or Mitigation" means any abatement or mitigation activity that will result in the removal of windows, walls, floors, ceilings or exterior surfaces which may result in the creation of a hazardous level of leaded chips, flakes, dust or any other form of leaded substance that can be ingested or inhaled.

"Negative Blood Lead Test Result" means a blood lead test with a blood lead level (PbB) of 9 micrograms/deciliter (mcg/dL) or less of whole blood in a child under age 16 years.

"Notice" means any written notification, as specified in this Part, to be issued by the Department or a delegate agency.

"Occupant" means any person who lives in a dwelling as defined in this Part.

"Owner" means any person, who alone, jointly or severally with others:

Has legal title to any dwelling or residential building, with or without accompanying actual possession of the dwelling or residential building, or

Has charge, care or control of the dwelling or residential building as owner or agent of the owner, or as executor, administrator, trustee, or guardian of the estate of the owner. (Section 2 of the Act)

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"Permissible limits" for reporting purposes means a confirmed blood lead level (PbB) of less than 10 micrograms/deciliter (mcg/dL) of whole blood in a child under age 16 years, less than 10 mcg/dL for a pregnant or breast-feeding woman and less than 25 mcg/dL for all other persons.

"Person" means any one or more natural persons, legal entities, governmental bodies, or any combination.

"Positive Blood Lead Test Result" means a blood lead level test with a blood lead level (PbB) of 10 micrograms/deciliter (mcg/dL) or higher of whole blood in a child under age 16 years.

"Residential Building" means any room, group of rooms, or other interior areas of a structure designed or used for human habitation; common areas accessible by inhabitants; and the surrounding property or structures. (Section 2 of the Act)

"Screening" means a blood lead testing by venous or capillary methodology.

"STELLAR" means the Systematic Tracking of Elevated Lead Levels and Remediation software developed and provided by the Centers for Disease Control and Prevention for local agencies to use in tracking lead poisoning cases.

"Third Party Exam" means that, in addition to training requirements and education and experience requirements, individuals seeking to become licensed as inspectors, Risk Assessors and Supervisors are required to pass a third party exam, administered by the Department or its designee, in addition to the training course examination.

"Training Hour" means at least 50 minutes of actual teaching, including time devoted to lecture, learning activities, small group activities, demonstrations, evaluations, and/or hands-on experience.

"Work Area" means exterior areas where lead abatement activities are conducted.

"Work Site" means the room or rooms undergoing lead abatement activities in a single family dwelling or the room or rooms and common area of a residential building.

(Source: Amended at 24 Ill. Reg. 11974, effective AUG 01 2000)

Section 845.12 Incorporated Materials

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a) The following materials are incorporated by reference in this Part:
 1) Occupational Safety and Health Administration (OSHA) Lead Standard 1910.1025 and 29 CFR 1926.62 (1993);
 2) Department of Housing and Urban Development (HUD) Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, except Chapter Seven (June 1995); Chapter Seven of the Guidelines, Lead-based Paint Inspection (revised 1997);
 3) Occupational Safety and Health Administration (OSHA) regulations at 29 CFR 1910.1001 and 29 CFR 1926.62 (1993);
 4) OSHA Interim Final Rule for Lead in Construction - 29 CFR 1926.62.

b) All incorporations by reference of federal regulations or standards and the standards of nationally recognized organizations refer to the regulation or standard on the date specified and do not include any additions or deletions subsequent to the date specified.

(Source: Amended at 24 Ill. Reg. 11974, effective AUG 01 2000)

Section 845.20 Reporting

a) The Department requires the following persons and facilities to report to the Department all blood lead levels (PbB):
 1) *Every physician who diagnoses,* or health care provider, *nurse, hospital administrator, or public health officer who has verified information of any person who has a level of lead in the blood in excess of the permissible limits,* as defined in Section 845.10, is required to report pursuant to this Section, starting with a confirmed lead level of 10 micrograms/per deciliter (mcg/dL). (Section 7 of the Act) If the analysis has been performed at the State laboratory, or the provider has ascertained that the clinical laboratory where specimens are processed electronically reports all blood lead level results to the Department, then duplicate reporting of elevated levels is not required.
 2) Directors of clinical laboratories who have verified information of any positive blood lead test results, as defined in Section 845.10, are required to report the results to the Department within 48 hours after receipt of verification. Negative blood lead test results, as defined in Section 845.10, shall be reported to the Department no later than 30 days following the last day of the month in which the test results are obtained by the laboratory. The information included in the clinical laboratory report on positive and negative blood lead test results shall include the blood lead level; the child's name, address, date of birth, sex and race; date of test; test type; date of report; physician and/or clinic with address; and the reporting agency. Verification and test information on positive blood lead test results must be submitted as a distinct report

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separate from the cumulated negative blood lead test information. All reports submitted must identify the report content as being either negative or positive blood lead test results. ~~*Directors of clinical laboratories who have verified information of any blood lead in the blood are required to report the results to the Department within 48 hours. Verification information shall consist of the blood lead level and shall include the name, address, date of birth, sex, race, date of test, test type, date of report, physician and/or clinic with address, and the reporting agency.* (Section 7 of the Act)~~

b) Reports required pursuant to this Section shall be made to the Department and all reported information, including the source of such information, received by the Department shall be considered confidential in nature. Any information submitted to a laboratory at the request of the Department and in accordance with this Part shall be treated as confidential by the laboratory which receives the information on behalf of and as required by the Department. The reported information under this Part shall be confidential and subject to good faith immunity in accordance with Part 21 of Article VIII the Code of Civil Procedure [735 ILCS 5/Art. VIII, Part 21] and the Communicable Disease Report Act [745 ILCS 45]. It is the right, however, of any patient to obtain their own data.

c) Reports required pursuant to this Section shall be submitted within 48 hours of receipt of verification thereof. Methods of submission can include written or electronic reporting as detailed in Section 845.Appendix A. Reports so submitted shall be considered received by the Department upon entry into the Data Processing system of the Department.

d) Reports of blood lead levels shall be on a form or in a format provided by the Illinois Department of Public Health (See Appendix A).

(Source: Amended at 24 Ill. Reg. 11974, effective AUG 01 2000)

Section 845.23 Laboratory Fees for Blood Lead Screening

a) The fee schedule for a sample of blood submitted to the Department for blood lead analysis and necessary follow-up shall be $25.75 ~~$25~~. The fee shall be assessed to the provider who submits the sample. Statements of fee assessment shall be mailed to the submitter of the specimens on a monthly basis. Payment and/or appropriate information as required in subsections ~~subsection~~ (b) and (c) of this Section shall be submitted to the Department upon receipt of the monthly statement.

b) The Medicaid Recipient Identification Number may be provided for those Medicaid eligible recipients in lieu of payment.

c) Medically indigent recipients shall be those recipients with family incomes under 185% of the federal poverty guidelines, not eligible for

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Medicaid, and screened by local health departments, Rural Health Clinics, Federally Qualified Health Centers and facilities designated by the Department of Health and Human Services as look-alike Federally Qualified Health Centers. No fee shall be charged for these recipients.

d) Fees collected from the Department's testing service shall be placed in a special fund in the State Treasury known as the Lead Poisoning Screening, Prevention and Abatement Fund.

(Source: Amended at 24 Ill. Reg. 11974, effective AUG 01 2000)

Section 845.26 Inspection of Dwellings, Residential Buildings or Child Care Facilities

a) Upon notification that a child who is an occupant or frequent inhabitant of a dwelling, child care facility, or residential building is reported to have a confirmed blood lead level that would necessitate an environmental inspection pursuant to subsections (a)(1) through (5) ~~(3)~~ of this Section, a representative of the Department or a delegate agency is authorized to inspect a dwelling, residential building, or child care facility for the purpose of determining the source of lead poisoning. In the following cases, an environmental inspection and follow-up shall be conducted by the Department or delegate agency:

1) a child with a confirmed blood lead level at or above 25 micrograms per deciliter. An environmental inspection is also recommended for each case in which a child has confirmed lead poisoning at or above 20 mcg/dL; ~~15 mcg/dL whose physician requests an inspection to determine if the child should be removed from the dwelling or residential building due to a lead hazard;~~

2) a child with a rising level, defined as a first confirmed level of 15 mcg/dL or higher and a second result of at least 5 mcg/dL or higher than the first level, with no time requirement between tests; ~~confirmed lead poisoning at or above 25 mcg/dL. An environmental inspection is also recommended for each case in which a child has confirmed lead poisoning at or above 20 mcg/dL; or~~

3) a child with three successive confirmed blood lead levels of 15-24 mcg/dL; ~~a persistent blood lead level of 15-24 mcg/dL over a six month period. Persistent is defined, for the purpose of this rule, as the performance of two or more blood lead tests during the six month period with all confirmed results in the 15-24 mcg/dL range.~~

4) a child with a single confirmed blood lead level at or above 20 mcg/dL whose physician requests an inspection to determine if the child should be removed from the dwelling or residential building

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due to the lead hazard;

5) Children under three years of age meeting any of the above criteria should receive higher priority for home inspection than older children.

b) An inspection of dwellings, residential buildings or child care facilities to determine the source of lead poisoning as required by this Section shall consist of, at a minimum, the following:

1) An interview with the owner or occupant about dwelling or facility use patterns and potential lead hazards including inquiries regarding:
 A) improper usage of lead-based ~~improperly~~ glazed pottery;
 B) ethnic or folk medicines;
 C) hobbies and occupations;
 D) other dwellings;
 E) international travel;
2) A visual assessment of the condition of the building, appurtenant structures and painted surfaces; and
3) Environmental sampling of deteriorated paint and dust based upon subsections (b)(1) and (2) of this Section.

c) Sampling shall be conducted by at least one of the following methods or a combination thereof:

1) X-Ray fluorescence device readings taken according to manufacturers' instructions;
2) Dust wipe samples taken for laboratory analysis;
3) Paint samples taken for laboratory analysis;
4) Soil samples taken for laboratory analysis (Samples may be taken at the discretion of the licensed lead inspector.);
5) Water samples taken for laboratory analysis (Samples may be taken at the discretion of the licensed lead inspector.).

d) *Following an inspection, the Department or its delegate agency shall:*

1) *Prepare an inspection report which shall:*
 A) *State the address of the dwelling unit;*
 B) *Describe the scope of the inspection, the inspection procedures used, and the method of ascertaining the existence of a lead bearing substance in the dwelling unit;*
 C) *State whether any lead bearing substances were found in the dwelling unit;*
 D) *Describe the nature, extent, and location of any lead bearing substance that is found;*
 E) *State either that a lead hazard does exist or that a lead hazard does not exist. If* a determination is made that *a lead hazard does exist, the report shall describe the source, nature and location of the lead hazard. The existence of intact lead paint does not alone constitute a lead hazard for the purposes of this Section;*
 F) *Give the name of the person who conducted the inspection and the person to contact for further information regarding the inspection and the requirements* of this Part and the Act.

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2) *Mail or otherwise provide a copy of the inspection report to the property owner and to the occupants of the dwelling unit. If a lead bearing substance is found,* the Department or its delegate agency shall attach a brochure containing information on lead abatement and mitigation to the copy of the inspection report provided to the property owner and the occupants of the dwelling unit. (Section 8 of the Act)

(Source: Amended at 24 Ill. Reg. 11974, effective AUG 01 2000)

Section 845.27 Requirements for Lead Inspector, Risk Assessor, Worker, Supervisor, and Contractor Licensing

a) To qualify for a license as a Lead Inspector, Risk Assessor, Worker, or Supervisor, an applicant shall meet the following requirements:

1) be at least 18 years of age;
2) complete the Department-approved initial training course for the discipline for which licensure is sought, ~~and~~ pass the examination administered at the conclusion of the course, and submit the training course completion certificate with the application for licensure. The initial training course must have been taken within three years before the date the Department received the application. ~~.~~ If the initial training course certificate is older than three years, the applicant shall submit the Department-approved initial training course completion certificate and each subsequent Department-approved refresher training course completion certificate indicating no lapse in accredited training;
3) ~~after August 31, 1998, an applicant for lead inspector, Risk Assessor or Supervisor shall pass the Department approved third party certification examination, within six months after the date on the course completion certificate, to be eligible for licensure in the disciplines of lead inspector, Risk Assessor or Supervisor. An applicant may take the third party examination, a maximum of three times. A $50 fee shall be assessed for each separate discipline examination, each time taken. Upon the applicant's successful completion of the third party examination, the Department shall issue the applicant a license in the appropriate discipline as specified in subsection (i) of this Section;~~
4) submit a recent 1" x 1" photograph of the applicant for proper identification of the licensee. The license shall not be issued without an identification photograph;
5) submit the appropriate completed application form provided by the Department;
6) submit the required license application fee. Employees of the Illinois Department of Public Health, a delegate agency, or a

local health department shall be exempt from licensure and third party examination fees when such employees' licenses are used only for purposes related to employment at the above-mentioned agencies~~;~~ ~~.~~

6) In addition to the requirements specified in subsections (a)(1) through (5), an applicant for Lead Inspector, Risk Assessor or Supervisor licensure shall pass the Department-approved third party certification examination, as specified in subsection (i) of this Section, within six months after the date the Department accepts the application for licensure.

b) Reciprocity. Each applicant for licensure who is licensed or certified in any of the disciplines specified in this Section in another state may request reciprocal licensure. The Department shall evaluate the requirements for licensure in such other state and shall issue the license if the Department determines that the requirements for licensure in such other state are as protective of health and the environment as the requirements for licensure in Illinois. To be considered for reciprocal licensure, each ~~Each~~ applicant for licensure pursuant to this Section shall submit the appropriate application and supporting documentation from the state in which currently licensed, accompanied by the non-refundable fee for each discipline as specified in subsection (e), (f), (g), (h) or (i) of this Section.

1) Reciprocal licenses shall expire in accordance with subsection (c) of this Section.

2) Renewal of reciprocal licensure shall be issued in accordance with subsection (d) of this Section, except that the required refresher course must have been completed within one year before the date the Department receives the reciprocal licensure renewal application.

c) Expiration Date. Lead Inspector and Risk Assessor licenses expire January 31 each year, except that a first-time license issued after October 31 and before February 1 shall expire the following January 31. Lead Worker and Lead Supervisor licenses expire March 31 of each year, except that a first-time license issued after December 31 and before April 1 shall expire the following March 31. Contractor licenses expire May 31 of each year.

d) Renewal of License. Any license issued pursuant to this Part may be renewed if the licensee submits the completed application, nonrefundable fee, 1" x 1" photo and a certificate of completion from a Department-approved one day (8 hour) refresher course. The course must have been taken within three years before the date the Department received the renewal application. If a renewal application is received after January 1 for a Lead Inspector or Risk Assessor license or after March 1 for a Lead Worker or a Supervisor license, the applicant shall pay a nonrefundable late fee of $15 in addition to the renewal fee. An applicant whose license has been expired for a period less than three years may apply to the Department for reinstatement of his license. The Department shall issue such reinstated license

provided the applicant pays to the Department all lapsed license fees and a reinstatement fee of $15. A license which has been expired for more than three years may be restored only by submitting a new application with a current certificate of completion from a Department-approved initial training course that has been completed within the last three years.

e) Risk Assessor License Requirements. To qualify for licensure as a Risk Assessor, a person shall:

1) Submit a $100 non-refundable application fee and a ~~.--After August 31, 1998, an additional~~ $50 non-refundable fee ~~will be required~~ for the third party examination specified in subsection (i) of this Section, and ~~.~~

~~2) Prior to April 1, 1998, to qualify for a Risk Assessor license, a person shall:~~

~~A) comply with subsections (a)(1) through (6) and (e)(1) of this Section, and~~

~~B) submit an initial Lead Inspector certificate and an initial Risk Assessor certificate or submit an initial Risk Assessor certificate and be a currently licensed Lead Inspector, and possess, at a minimum, one of the following combinations of education and experience:~~

~~i) A bachelor's degree in science, engineering, or environmental health; or~~

~~ii) A bachelor's degree in any discipline and one year of experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction); or~~

~~iii) An associate's degree in any discipline and two years of experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction); or~~

~~iv) Be licensed as an industrial hygienist, professional engineer, architect or environmental health practitioner; or~~

~~v) A high school diploma (or equivalent), and at least three years of experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction).~~

~~3) After March 31, 1998, to qualify for licensure as a Risk Assessor, a person shall:~~

2A) comply with subsections (a)(1) through (6) and (e)(1) of this Section, and

3B) submit an initial Lead Inspector certificate and an initial Risk Assessor certificate or submit an initial Risk Assessor certificate, be a currently licensed Lead Inspector, and possess, at a minimum, one of the following combinations of education and experience:

Ai) A bachelor's degree in science, engineering, or environmental health; or

Bii) A bachelor's degree in any discipline and one year of experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction); or

Ciii) An associate's degree in any discipline and two years of experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction); or

Div) Be licensed as an industrial hygienist, professional engineer, architect or environmental health practitioner; or

Ev) A high school diploma (or equivalent), and at least three years of experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction).

f) Lead Inspector License Requirements. To qualify for licensure as a Lead Inspector, a person shall complete and submit the application required by this Section and:

1) submit a $100 non-refundable application fee and a ~~.--After August 31, 1998 an additional~~ $50 non-refundable fee ~~will be required~~ for the third party examination specified in subsection

(i) of this Section.

2) comply with subsections (a)(1) through (6) of this Section.

~~2) submit a certificate from an initial three-day, Department-approved lead-inspector-training course, which must have been taken within three years before the date the Department received the application.~~

g) Lead Worker License Requirements. To qualify for a license as a Lead Worker, a person shall complete and submit the application as required by this Section and:

1) submit a $25 non-refundable application fee, and ~~.~~

2) comply with subsections (a)(1) through (5) of this Section.

~~2) submit a certificate from a Department-approved initial Lead Worker course that must have been taken within three years before the date the Department received the application.~~

h) Supervisor License Requirements. To qualify for licensure as a Supervisor, a person shall complete and submit the application as required by this Section and:

1) submit a $50 non-refundable application fee and a ~~. After August 31, 1998, submit an additional~~ $50 non-refundable fee for the third party examination specified in subsection (i) of this Section.

2) comply with subsections (a)(1) through (6) of this Section.

~~2) submit a certificate from an initial Department-approved Supervisor course that must have been completed within three years before the date the Department received the application.~~

3) ~~after March 31, 1998, an applicant for a Supervisor license must also~~ meet experience requirements as follows:

A) One year of experience as a certified lead-based paint abatement worker; or

B) Two years of experience in a related field (e.g., lead, asbestos, or environmental remediation work) or in the building trades.

i) Applicants ~~After August 31, 1998, applicants~~ for Lead Inspector, Risk Assessor and Supervisor licenses are required to take a third party examination.

1) To qualify to take the third party examination an applicant shall:

A) Comply with the requirements of subsections (a)(1) through ~~(6), (2), (4), (5), and (6)~~ of this Section for the appropriate discipline,

B) Submit a completed third party examination application form provided by the Department,

C) submit a $50 non-refundable third party examination application fee for each separate discipline examination, each time the examination is taken.

2) The Department shall provide, by mail, the following to applicants who qualify to take the third party examination:

A) date, time, and location for the applicant to take the third party examination; ~~and~~

B) a detailed information packet, instructions for registration at the examination site, and directions to the facility where the examination is being administered; and~~.~~

C) date the Department accepted the application.

3) When an applicant receives a passing score on the third party examination, the Department shall issue the license to the applicant in the discipline for which the applicant qualifies.

4) If the applicant does not pass the third party examination, the Department will notify the applicant, who may reapply to the Department to take the third party examination again. An applicant may take the third party examination no more than three times within six months after the Department accepts the application for licensure. ~~receiving a course completion certificate.~~ If an applicant does not pass the third party examination within six months after the Department accepts the application for licensure ~~receiving a course completion certificate~~, the applicant must retake the initial training course from a Department-approved ~~an approved~~ training course provider before reapplying for licensure and approval to take the third party examination.

j) Lead Abatement Contractor License Requirements.

1) To qualify for licensure as a Lead Abatement Contractor, a person shall:

A) submit a completed application on a form provided by the Department;

B) submit a $500 non-refundable licensure fee or, for applications received on or after December 1, a $250 non-refundable licensure fee for a six month license;

C) submit a certificate of financial responsibility documenting that the contractor carries liability insurance for work performed pursuant to the Lead Poisoning Prevention Act and this Part. The contractor shall notify the Department of any changes in the status of the certificate of financial responsibility, including expiration, renewal or alteration of the terms of the certificate. The certificate of financial responsibility shall be an original and shall expressly provide coverage for lead abatement. A photocopy or facsimile copy is not acceptable. The certificate shall be issued by an insurance company that is authorized to transact business in Illinois. A current certificate of insurance shall be on file with the Department at all times;

D) submit the name of the person with a valid Illinois Contractor/Supervisor's license. Such license must be held by either the Contractor or an employee of the Contractor;

E) submit a written statement signed by the Contractor specifying that only Lead Workers licensed by the Department will be employed for lead abatement;

F) submit a copy of the Contractor's written standard operating procedures and employee protection plan, which shall include specific references to medical monitoring and respirator training programs required in OSHA regulations at 29 CFR 1910.1001 and 29 CFR 1926.62 (1993);

G) submit a description of all legal proceedings, lawsuits or claims which have been filed or levied against the Contractor or any of his/her past or present employees or companies in regard to construction-related activities. If there are no claims as specified in this subsection (j)(1)(G) against the Contractor then a signed statement to that effect shall be submitted to the Department.

2) Reciprocity. An applicant for a Contractor's license who is licensed or certified for lead contracting in another state may request reciprocal licensure. The Department shall evaluate the requirements for licensure in such other state and shall issue the license, if the Department determines that the requirements for licensure in such other state are equal to the requirements for licensure in Illinois. Each applicant for licensure pursuant to this subsection (j)(2) shall submit a one time non-refundable application fee of $250 and an additional $500 non-refundable license fee if qualified for licensure.

3) Renewal of License. All Contractor licenses shall be renewed annually. All licenses shall expire on May 31 of each year. If a renewal application is received after April 30, the applicant shall pay a non-refundable late fee of $100, in addition to the $500 non-refundable renewal fee. An applicant whose license has expired for a period of three years or less may apply to the Department for reinstatement of the license. The license shall be reinstated if the applicant submits to the Department all the lapsed license fees and a reinstatement fee of $100. A license which has expired for more than three years is not eligible for renewal. In such instances, the formerly licensed individual desiring to be licensed shall follow the application procedures specified in subsection (j)(1)(A) through (G) of this Section.

k) Denial of Application, and Suspension or Revocation of License.

1) The Director of Public Health, after notice and opportunity for hearing, may deny the application for, or suspend or revoke the license of, a Lead Abatement Contractor, Supervisor, Worker, Lead Risk Assessor, or Inspector in any case in which the Director of Public Health finds substantial or continued failure to comply with the requirements of this Part, including fraud, misrepresentation, working without a license, or not adhering to work practice standards.

2) Such notice shall be made by certified mail or by personal service and shall set forth the particular reasons for the proposed action and provide the applicant or licensee with an opportunity to request a hearing. If a written hearing request

is not received within 15 days after receipt of the notice by the applicant or licensee, the right to a hearing is waived.

(Source: Amended at 24 Ill. Reg. 11974, effective AUG 31 2000)

Section 845.28 Approval of Training Program Providers

a) Requirements for Approval of All Training Programs.

1) To be approved as a training provider, a person shall submit to the Department information to confirm that the program provides:

A) Adequate facilities for classroom and field hands-on training;

B) A final examination for initial and refresher courses with criteria for pass/fail (at least 70% correct to pass);

C) An example of the certificate of course completion with name/address/phone number of the training course provider and student information (name, dates of course, and identification of pass/fail) which is submitted to the Department for each student after course completion;

D) Student and instructor manuals and a course agenda;

E) A class schedule, which shall be submitted to the Department prior to the start of each course.

2) The training program shall employ a training manager who:

A) Has:

i) At least two years of experience, education, or training in teaching workers or adults; or

ii) A bachelor's degree or higher degree in building construction technology, engineering, industrial hygiene, safety, public health, education, business administration or program management or a related field; or

B) Has two years of experience in managing a training program specializing in environmental hazards; and has demonstrated experience, education, or training in the construction industry including lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene.

3) The training manager shall designate, for each course, a qualified principal instructor who has:

A) Demonstrated experience, education, or training in teaching workers or adults;

B) Successfully completed at least 16 hours of any Department-approved lead-specific training; and

C) Demonstrated experience, education, or training in lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene.

4) The principal instructor shall be responsible for the organization of the course and oversight of the teaching of all course material. The training manager may designate guest instructors as needed to provide instruction specific to the lecture, hands-on activities, or work practice components of a course.

5) The training manager is responsible for maintaining training program records and making such records available to the Department as specified in this subsection (a)(5):

A) Training program records shall be made available to the Department for review as follows:

i) The training program shall retain records at the address specified on the training program approval application (or as modified) for a minimum of 3 1/2 years.

ii) The training program shall notify the Department in writing within 30 days after changing the address specified on its training program approval application or transferring records from that address to a new address.

iii) The Department shall have the authority to enter, inspect and audit training facilities to determine compliance with the Act and this Part.

B) Training records that shall be maintained by the training course provider include, but are not limited to, the following:

i) All documents that demonstrate the qualifications of the training manager and principal instructors, as specified in subsection (a)(2) of this Section.

ii) Current curriculum/course materials and documents reflecting any changes made to these materials.

iii) The course examination blueprint.

iv) Information regarding the conduct of the hands-on skill assessment, including, but not limited to, the name of the instructor who conducts the assessment, how the skills are graded, what facilities are used for the hands-on assessment, the pass/fail rate, and the quality control plan.

v) Results of the students' hands-on skills assessments and course examinations, and a record of each student's course completion certificate.

vi) Any other materials specified in this Section that have been submitted to the Department as part of the program's application approval.

b) Requirements for Approval of Lead Inspector Training Programs. To obtain approval for a Lead Inspector training program, a person shall submit information to confirm that the program provides:

1) at least a three day course (equivalent to 24 hours of instruction), two days of which are dedicated to the topics specified in this subsection (b)(1), and 8 hours of hands-on instruction. Requirements ending in an asterisk (*) indicate areas that require hands-on activities:

A) Role and responsibilities of a Lead Inspector;

B) Background information on lead and the adverse health effects of lead exposure;

C) Background information on federal, State, and local regulations and guidance pertaining to lead-based paint and lead-based paint activities;

D) Lead-based paint inspection methods, including selection of rooms and components for sampling or testing;*

E) Paint, dust and soil sampling methodologies;*

F) Clearance standards and testing, including random sampling;*

G) Preparation of the final inspection report;* and

H) Record keeping.

2) The one day (8 hour) Lead Inspector refresher course content shall be the same as the course content specified in subsections (b)(1)(A) through (G) of this Section, and any current safety practices, new laws and regulations, and current technologies relating to lead-based paint activities.

c) Requirements for Approval of Risk Assessor Training Programs. To obtain approval for a Risk Assessor training program, a person shall submit information to confirm that the program provides:

1) At least a two day course (equivalent to 16 hours of instruction), with a minimum of 4 hours of hands-on instruction provided. Requirements ending in an asterisk (*) indicate areas that require hands-on activities:

A) Assurance to the Department that a Lead Inspector training course certificate of completion is required of each applicant as a prerequisite for Risk Assessor training course attendance;

B) Role and responsibilities of the Risk Assessor;

C) Collection of background information to perform a dwelling risk assessment;

D) Sources of environmental lead contamination (paint, surface dust and soil, water, air, packaging, and food);

E) Visual inspection procedures for the purpose of identifying potential sources of lead-based paint hazards*;

F) Lead hazard screening protocol;

G) Sampling for sources of lead exposure*;

H) Interpretation of lead-based paint and other lead sampling results, including all applicable State and federal guidance pertaining to lead-based paint hazards (i.e., federal statutes and regulations)*;

I) Development of hazard control options, the role of interim controls, and operations and maintenance activities to reduce lead-based paint hazards; and

J) Preparation of a final risk assessment report.

2) The one day (8 hour) lead Risk Assessor refresher course content shall be the same as the course content specified in subsections (c)(1)(B) through (J) of this Section, and any current safety practices, new laws and regulations, and current technologies relating to lead-based paint activities.

d) Requirements for Approval of Lead Worker Training Programs. In order to obtain approval for a Lead Worker training program, a person shall submit information to confirm that the program provides:

1) At least a three-day course (equivalent to 24 hours) of instruction with a minimum of one day (8 hours) of hands-on training. Requirements ending in an asterisk (*) indicate hands-on activities:

A) Role and responsibilities of a lead abatement worker;

B) Background information on lead and the adverse health effects of lead exposure;

C) Background information on federal, State and local regulations;

D) Lead-based paint hazard recognition and control*;

E) Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices*;

F) Interior dust abatement methods/cleanup or lead-based paint hazard reduction*; and

G) Soil and exterior dust abatement methods or lead-based paint hazard reduction*.

2) The one day (8 hour) Lead Worker refresher course content shall be the same as the course content specified in subsections (d)(1)(A) through (K) of this Section, and any current safety practices, new laws and regulations, and current technologies relating to lead-based paint activities.

e) Requirements for Approval of Supervisor Training Programs. To obtain approval for a Supervisor training program, a person shall submit information to confirm that the program provides:

~~1) Prior to April 1, 1998, in addition to the three day course in subsections (d)(1)(A) through (K) of this Section, a lead Supervisor shall complete a lead Supervisor supplemental course that shall consist of an additional eight hours (one day) of training, and shall pass the examination administered at the end of the course. The supplemental training course for lead Supervisors shall be dedicated to the following topics:~~

~~A) Lead inspection;~~

~~B) Supervisory techniques;~~

~~C) Occupational Safety and Health Administration (OSHA) Lead Standard 1910.1025 and 29 CFR 1926.62 (1993); and~~

~~D) Department of Housing and Urban Development (HUD) Guidelines for the Evaluation and Control of Lead Based Paint Hazards in Housing (June 1995).~~

~~12) After March 31, 1998, the Supervisor course shall be at least~~ A a

minimum of 32 training hours, with a minimum of 8 hours devoted to hands-on activities, and an examination administered at the end of the course. (Requirements ending in an asterisk (*) indicate areas that require hands-on activities as an integral part of the course):

A) Role and responsibilities of a supervisor;

B) Background information on lead and its adverse health effects;

C) Background information on federal, State, and local regulations and guidance that pertain to lead-based abatement;

D) Liability and insurance issues relating to lead-based abatement;

E) Risk assessment and inspection report interpretation*;

F) Development and implementation of an occupant protection plan and abatement report;

G) Lead-Based paint hazard recognition and control*;

H) Lead-Based paint abatement and lead-based paint hazard reduction methods, including restricted practices*;

I) Interior dust abatement/cleanup or lead-based paint hazard control and reduction methods*;

J) Soil and exterior dust abatement or lead-based paint hazard, control and reduction methods, including large scale abatement projects*;

K) Clearance standards and testing;

L) Cleanup and waste disposal;

M) Recordkeeping; and

N) Integration of lead-based paint abatement methods with modernization and rehabilitation projects for large scale abatement projects.

23) The one day (8 hour) lead Supervisor refresher course content shall be the same as the course content specified in subsections (e)(12)(A) through (N) ~~(M)~~ of this Section, and any current safety practices, new laws and regulations, and current technologies relating to lead-based paint activities and rehabilitation projects for large-scale abatement projects.

f) Application Fees for Approval and Renewal of Lead Training Courses.

1) All lead training course approvals expire on October 15.

2) All initial lead training course approval application fees shall be $200 per discipline and all lead refresher training course approval application fees shall be $100 per discipline.

3) Applications for renewal of all lead training course approvals must be received by September 15 of each year. If the renewal application is received after September 15, a $50 late fee shall be charged per course.

4) Application fees for all lead training courses, effective October 15, 1998, will be as follows, except that fees will be waived for all State, local, and not-for-profit training providers.

A) Initial training course for all disciplines, $500 per course;

B) Refresher training course for all disciplines, $250 per course; and

C) Late fees for all disciplines, $50 per course.

g) Suspension, Revocation, or Denial of Training Courses. The Department may suspend, revoke or deny approval of any lead training course for any of the following reasons:

1) Misrepresentation of the contents of a training course to the Department and/or the student population;

2) Failure to submit required information or notifications;

3) Failure to maintain required records;

4) Falsified records, instructor qualifications, or other related information or documentation;

5) Failure to comply with the training standards and requirements in this Section; or

6) Failure to comply with federal, State, or local lead-based paint statutes or regulations.

(Source: Amended at 24 Ill. Reg. 11974, effective July 1, 2000)

Section 845.30 Mitigation or Abatement of Lead Hazards

a) The following procedures shall be followed upon determination by the Department or delegate agency that a lead hazard is present in or upon any dwelling or residential building or child care facility. The Department or delegate agency will provide the occupant of the dwelling with a copy of any mitigation notice, amended notice, mitigation plan, amended plan, or follow-up inspection report issued pursuant to this subsection (a).

1) *If the inspection report identifies a lead hazard, the Department or delegate agency shall serve a mitigation notice on the property owner that the owner is required to mitigate the lead hazard.* The mitigation notice shall *indicate the time period in which the owner must complete the mitigation* as required by subsection (a)(3) of this Section, and *shall include information describing mitigation activities which meet the requirements of* this Part and the Act. (Section 9(1) of the Act)

2) *If the inspection report* prepared in accordance with Section 845.26, *identifies a lead hazard, the owner shall mitigate the lead hazard* in accordance with the requirements of this Section *and within the time limits* set forth in subsection (a)(3) of this Section. *If the source of the lead hazard identified in the inspection report is lead paint or any other leaded surface coating, the lead hazard shall be deemed to have been mitigated if:*

A) *The surface identified as the source of the hazard is no longer in a condition that produces a hazardous level of leaded chips, flakes, dust or any other form of leaded substance that can be ingested or inhaled by humans; or*

B) *If the surface identified as the source of the hazard is accessible to children and could reasonably be chewed on by children, the surface coating is either removed or covered, or the access to the leaded surface by children is otherwise prevented as prescribed by the Department.* (Section 9(2) of the Act)

3) *When a mitigation notice is issued for a dwelling unit inspected as a result of an elevated blood lead level in a pregnant woman or a child, or if the dwelling unit is occupied by a child under 6 years of age or a pregnant woman, the owner shall mitigate the hazard within 30 days after receiving the notice; otherwise, the owner shall complete the mitigation within 90 days.* (Section 9(5) of the Act)

4) *An owner may apply to the Department or its delegate agency for an extension of the deadline for mitigation. If the Department or its delegate agency determines that the owner is making substantial progress toward mitigation* during the prescribed time period, *or that the failure to meet the deadline is the result of a shortage of licensed abatement contractors or workers, or that the failure to meet the deadline is because the owner is awaiting the review and approval of a mitigation plan, the Department or delegate agency may grant an extension of the deadline.* (Section 9(6) of the Act)

5) *The Department or its delegate agency may, after the deadline set for completion of mitigation, conduct a follow-up inspection of any dwelling for which a mitigation notice was issued for the purpose of determining whether the mitigation actions required have been completed and whether the activities have sufficiently mitigated the lead hazard. The Department or its delegate agency may conduct a follow-up inspection upon the request of an owner or resident. If, upon completing the follow-up inspection, the Department or its delegate agency finds that the lead hazard for which the mitigation notice was issued is not mitigated, the Department or its delegate agency shall serve the owner with notice of the deficiency and a mitigation order. The order shall indicate the specific actions the owner must take to comply with the mitigation requirements of this Act, which may include abatement if abatement is the sole means by which the lead hazard can be mitigated. The order shall also include the date by which the mitigation shall be completed. If, upon completing the follow-up inspection, the Department or delegate agency finds that the mitigation requirements of this Act have been satisfied, the Department or delegate agency shall provide the owner with a certificate of compliance stating that the required mitigation has been accomplished.* (Section 9(7) of the Act)

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b) In order to ensure that lead mitigation or abatement activities do not result in lead contamination of areas outside of the abatement work/site ~~worksite~~ or work area, the removal of lead-bearing substances from the dwelling, residential building, or child care facilities shall be conducted in a manner that will not endanger the health or well-being of occupants and will result in the safe removal from the work/site ~~worksite~~ or work area and the safe disposal of flakes, chips, debris, dust, and other lead-bearing substances. Notwithstanding any provisions to the contrary, performance of mitigation and abatement activities which do not conform to procedures and criteria provided in this Section, whether or not those procedures and criteria are expressly made mandatory in this Section, shall create a rebuttable presumption of creation of a health hazard by the person performing such activities.

c) Mitigation. Mitigation is an interim method of eliminating the lead hazard risk to a child and may consist of any number of the Department-prescribed lead hazard repair activities specified in subsections (c)(1) through (4) of this Section. Such activities may not be considered final actions if it is determined, through a follow-up inspection conducted pursuant to subsection (a)(5) of this Section, that the lead hazard repair measures taken have not sufficiently mitigated the lead hazard. Lead hazard repairs shall be completed within the time specified after receipt of written notification. When conducting any lead hazard repair that does not create lead dust or fumes as specified in subsections (c)(1) through (4), the requirements of Section 845.28 pertaining to the licensure of lead workers, lead contractor/supervisors, or lead abatement contractors and the requirements of subsections (d)(1)(B) through (E) and (d)(2) of this Section are optional.

1) All loose paint shall be moistened and carefully scraped from defective surfaces. These areas shall then be covered with contact paper, cloth, canvas, or other material which will create an intact surface for the purpose of preventing the paint chips from falling on the floor and preventing a child's access to the lead hazard. All debris shall be collected and sealed in plastic bags for proper disposal in accordance with subsection (q) of this Section.

2) Areas which may be chewed upon by a child shall be covered with heavy paper, cardboard, cloth, canvas, or other material that will prevent access to the lead hazard by a child.

3) All plaster and paint chips shall be collected, and any surfaces that have collected paint dust shall be cleaned by damp mopping with a phosphate-containing detergent or trisodium phosphate (TSP), or a phosphate-free lead-dissolving detergent.

4) A mitigation plan shall be submitted by the owner or its agent to the Department or delegate agency specifying the method or methods by which surfaces which will be managed-in-place are to be maintained in an intact condition. The plan shall include an inspection schedule, which shall include inspection by the owner or its agent at least annually, and a maintenance schedule. Any surfaces that are not intact, as determined through an inspection, shall be repaired using the mitigation techniques specified in subsections (c)(1), (2), and (3) of this Section.

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NOTICE OF ADOPTED AMENDMENTS

d) Abatement. For cases in which a follow-up inspection conducted pursuant to subsection (a)(5) of this Section determines that lead hazard repair measures taken have not sufficiently mitigated the lead hazard, abatement may be deemed necessary. If the Department or delegate agency determines that abatement is the sole means by which a lead hazard can be mitigated, then abatement activities shall be conducted in accordance with this Section. *Mitigation activities which involve the destruction or disturbance of any leaded surface shall be conducted by a licensed lead abatement contractor using licensed lead abatement workers* (Section 9 of the Act). If the mitigation activities described in subsection (c) of this Section will not result in protection of a child, or are not practical, any child or children shall be removed to a lead-safe dwelling until abatement is completed.

1) Personnel Protection. An owner, its agent, or any person who is performing corrective action that is prescribed by the Department or a delegate agency for lead abatement in a dwelling, shall take the following precautions to protect his or her health and the health of occupants of the dwelling during any lead abatement that may produce lead dust or fumes. Monitoring of airborne dust shall be performed when work is in progress and respiratory protection shall be provided in accordance with this Section. The owner or its agent shall assure, through the monitoring of airborne dust in the work site and in areas that are outside but adjacent to the work site, that no person conducting lead abatement work directed by the Department or owner is exposed to lead at concentrations greater than the permissible exposure limit average (50 mcg/m(3)) over an eight-hour period.

A) No children, pregnant women, unprotected workers, nonworkers, or pets shall be permitted to enter the work site.

B) Respiratory protection shall be worn by all individuals in the work site or work area who may be exposed to lead dust or fumes at all times during lead abatement activities. Respiratory protection in accordance with OSHA Interim Final Rule for Lead in Construction - 29 CFR 1926.62, shall be worn until all areas have been thoroughly cleaned as described in subsection (o) of this Section. The following are the minimum respiratory protection requirements:

i) Air lead levels of 500ug/m(3) or less: Half-mask air purifying (protection 10X) respirator with high efficiency filters; or half-mask supplied air respirator operated in demand (negative-pressure) mode.

ii) Air lead levels between 500ug/m(3) and 1,250ug/m(3): Loose fitting hood or helmet (protection 25X) powered air purifying respirator with high efficiency filters; or hood or helmet supplied air respirator operated in continuous-flow mode (e.g., type CE abrasive blasting respirators operated in a continuous flow mode).

iii) Air lead levels between 1250ug/m(3) and 2500ug/m(3): Full facepiece air purifying (protection 50X) respirator with high efficiency filters; tight fitting powered air purifying respirator with high efficiency filters; full facepiece supplied air respirator operated in demand mode; half-mask or full facepiece supplied air respirator operated in a continuous-flow mode; or full facepiece self-contained breathing apparatus (SCBA) operated in demand mode.

iv) Air lead levels between 2500ug/m(3) and 50,000ug/m(3): Half-mask supplied air (protection 1,000X) respirator operated in pressure-demand or other positive pressure mode.

v) Air lead levels between 50,000ug/m(3) and 100,000ug/m(3): Full facepiece supplied air (protection 2,000X) respirator operated in pressure demand or other positive pressure mode (e.g., type CE abrasive blasting respirators operated in a positive pressure mode).

vi) Greater than 100,000ug/m(3): Full facepiece SCBA operated unknown concentration, in pressure-demand or other or fire fighting positive pressure mode (protection over 2000X).

C) Only approved Mine Safety and Health Administration (MSHA) or National Institute of Occupational Safety and Health (NIOSH) respirators shall be used. Respirators shall be properly fitted for all persons working at the site. If any person has a medical history of respiratory problems, a physician should be contacted for testing to determine if the person may wear such respirators.

D) The manufacturers' instructions shall be followed for maintenance, proper fit, use of appropriate cartridges, cleaning, repair, replacement of defective parts, appropriate storage, and the frequency of cartridge replacement for the specific respirator in use. (NOTE: Respirators are not effective if facial hair (a beard, etc.) is present because a good seal cannot form between the respirator and skin.)

E) Respirators shall not be removed while in the work site or work area.

F) Additional respiratory protection by supplemental filters, such as organic vapor cartridges, may be needed when handling some coating or stripping products. Consult the Material Safety Data Sheets (MSDS) or the manufacturer and obtain the proper filters as necessary.

2) Individuals at the work site shall wear full body suits with hoods and shoe covers. A TYVEK or similar type of disposable suit may be worn. Disposable suits shall be used once, then properly discarded. Protective clothing, as described above, and other personal protective equipment (PPE) shall be put on prior to entering the work site or work area. Protective clothing shall be worn in the work site or work area until it has been thoroughly cleaned as described in clean-up activities in subsection (o) below. Protective clothing shall be changed before leaving the work site or work area and nondisposable suits shall be laundered separately. An area other than the work site or work area shall be provided for persons to put on suits and other PPE and to store their street clothes.

3) Goggles with side shields shall be worn when working with a material that may splash or fragment, or if protective eye wear is specified on the Material Safety Data Sheet (MSDS) for that product.

e) Notice to Occupants. The owner or its agent shall give notice to the occupants of a dwelling to be abated for lead, at least 7 days but not more than 30 days, before a contractor or the owner may commence a lead abatement project. Before beginning a lead abatement project, the owner of the building in which lead abatement is to take place shall remove all furniture and packed personal items from the work site and store them in a secure place. The owner of the building in which the lead abatement project is to take place shall notify all residents of:

1) the site or area which is to be abated;

2) the date on which abatement is to commence; and

3) the occupants' obligations under this Section to place all personal items in a box or other closed, easily handled container. Every occupant of a dwelling to be abated, who has received a notice of lead abatement, shall be responsible for placing all personal items in boxes or other closed, easily handled containers.

f) Residential Buildings. At all times when a lead abatement project is being conducted in a common area of a residential building:

1) occupants and pets shall use alternative entrances and exits which do not require passage through the work site or work area, if such entrances and exits exist;

2) the owner or its agent shall use all reasonable efforts to create an uncontaminated passage for entrance and egress of all building occupants; and

3) if the entrance to and egress from a building can only be through the work site or work area, abatement in the work site or work area shall be conducted between the hours of 9 a.m. to 3 p.m. only, and the work site or work area shall be cleaned with a HEPA

vacuum at the end of each working day until all surfaces are free of visible dust and debris.

g) Abatement of lead-bearing substances shall not employ the following methods:
 1) open flame burning;
 2) dry-sanding;
 3) open abrasive blasting;
 4) uncontained hydro-blasting;
 5) methylene chloride for interior use (except that methylene chloride may be used in work sites for localized touch-up); or
 6) dry-scraping.

h) Abatement of lead-bearing substances shall employ only the following methods:
 1) Replacement. Any component part of a building may be abated by replacement with a part free of lead-bearing substances.
 2) Removal. Unless replaced, encapsulated, or reversed, woodwork may be abated by using the following techniques:
 A) offsite chemical stripping;
 B) heat gun (The temperature of the heat gun shall not exceed 1,100° F.);
 C) nonflammable chemical strippers which do not contain methylene chloride, except that chemical strippers containing methylene chloride may be used for localized touch-up;
 D) sander equipped with HEPA vacuum;
 E) vacuum-blasting in exterior work areas only;
 F) contained hydro-blasting in exterior work areas only; or
 G) mechanical paint removal systems equipped with a HEPA vacuum.
 3) Unless replaced or encapsulated, walls or ceilings may be abated by using the following techniques:
 A) wet-scraping of loose material, if scraping is followed by encapsulation;
 B) vacuum-blasting in exterior work areas only; or
 C) contained hydro-blasting in exterior work areas only.
 4) Enclosure. A wall or ceiling surface may be abated by covering the lead-bearing surface with any of the following materials, provided use of any material complies with local building ordinances or codes. (All seams and openings shall be caulked and sealed where applicable.):
 A) gypsum board;
 B) fiberglass mats;
 C) canvas-backed vinyl wall coverings;
 D) high pressure, laminated plastic sheet, such as Formica (R);
 E) tile;
 F) paneling;
 G) other durable material that does not readily tear or peel; or

 H) solvent-free coatings (not household paint) applied in accordance with the manufacturer's directions.
 5) A floor surface may be abated by enclosure using the following materials:
 A) tile;
 B) vinyl flooring;
 C) wood; or
 D) stone.
 6) A woodwork surface may be abated by enclosure or encapsulation only with the following materials:
 A) plastic;
 B) metal;
 C) wood; or
 D) solvent-free coatings (not household paint) applied in accordance with the manufacturer's directions.
 7) Reversal. A woodwork surface may be abated by reversing component parts, provided that no lead-bearing surface remains exposed at the completion of the process and all seams are caulked and sealed.
 8) Windows, when abated, shall be completely treated, including inside, outside, and sides of sashes and mullions. Window frames shall be abated to the outside edge of the frame, including slides, sash guides, and window wells and sills.

i) Alternative Procedures
 1) The Department or delegate agency may allow an alternative procedure for abatement, containment or cleanup of a lead paint hazard, provided that the owner submits to the Department or delegate agency a written description of the alternative procedure that demonstrates to the satisfaction of the Department that the proposed alternative procedure provides a level of abatement and safety equivalent to the requirements of this Section. The delegate agency shall send a copy of the request and the delegate agency's response to the Department for its records.
 2) In all cases in which the Department or delegate agency allows the use of an alternative procedure under subsection (ih)(1) above, the owner and occupant shall, for a one-year period after completion of the lead abatement project, permit the Department or delegate agency to enter and inspect the area of abatement for the purpose of determining the effectiveness and durability of the allowed alternative procedure.

j) Caution Signs. At each work site or work area in dwellings occupied by two or more families, the owner or its agent performing an abatement shall display a caution sign in the following manner wherever the abatement process is reasonably expected to break or disturb any lead-bearing substances.
 1) At least 3 days before removing, enclosing, or encapsulating lead paint, the owner shall post caution signs immediately outside all

entrances and exits to the work site. In emergency situations posting shall be done as soon as possible.

2) The owner shall keep the caution signs posted until the lead abatement is completed.

3) The owner shall ensure that caution signs meet the following specifications:

A) the sign shall be at least 20" by 14", and state the date and place of the lead abatement project;

B) except as provided in subsection (j)(3)(C) below, the sign shall include the phrase "Caution, Lead Hazard, Keep Out" or "Warning, Lead Work Area, Keep Out" in bold lettering, at least two inches high; and

C) in dwellings occupied by two or more households where common areas are to be abated, the sign shall include the phrase "Caution, Lead Hazard, Do Not Remain in Work Area Unless Authorized" in bold lettering at least two inches high.

k) Residential Buildings

1) In residential buildings where common areas are to be abated, the owner or its agent shall post a notice on the door of each apartment in the building at least three days before a lead abatement project commences.

2) The notice required in subsection (k)(1) above shall contain:

A) the date of commencement of abatement and identification of the area to be abated; and

B) a caution statement alerting residents not to enter the work site or work area.

l) Personal Hygiene Practices

1) Eating, drinking, smoking, and applying of cosmetics are not allowed in the work site or work area. Any person leaving the work site or work area shall rinse his or her mouth with potable water and wash hands and face thoroughly before eating, drinking or smoking.

2) All individuals shall wash or shower before leaving the work site or work area for the day.

3) A lavatory facility or potable water supply or a portable decontamination unit shall be provided and located at the work site or work area for the washing of hands and face and for clean up activities.

m) Negative air pressure shall be maintained in work sites undergoing lead abatement in multiple dwelling units occupied by two of more households having a common area and in residential buildings having a common area, in which any unit of the building is undergoing lead abatement. The maintenance of negative air pressure will ensure that contaminated air does not filter from the work site to uncontaminated areas. (See Appendix D of this Part)

1) The negative pressure system shall use HEPA filters and shall operate continuously, 24 hours a day, at the start of the lead abatement work through clean-up as described in Section 845.30(o).

2) The owner or its agent shall assure, through the monitoring of airborne dust, that no person conducting lead abatement work directed by the Department is exposed to lead at concentrations greater than 50 mcg/m(3) average over an eight-hour period.

n) Containment

1) Interior Containment. Before beginning to abate a lead-containing substance which will cause lead dust or fumes in excess of the requirements in subsection (c) above in the work site, the owner or its agent performing an abatement shall:

A) ensure that all movable objects have been removed from the work site;

B) turn off all forced air ventilation in the work site and seal exhaust and intake points in the work site;

C) if the work site is a room or group of rooms within a building, seal the work site from all other portions of the building with plastic sheeting at least 6 mils thick, secured by duct tape or spray adhesives;

D) seal the opening seams of all kitchen cabinets and refrigerators individually with tape;

E) cover all objects that cannot be moved, such as radiators, refrigerators, stoves, kitchen cabinets, built-in furniture, and bookcases, with plastic sheeting at least 6 mils thick taped securely in place;

F) cover floors in the work site with plastic sheeting at least 6 mils thick sealed with tape; and

G) remove all carpeting from the work site prior to abatement. Carpeting shall be professionally cleaned or replaced. Carpeting shall be misted with water prior to removal to prevent lead dust exposure.

2) Exterior Containment. Before beginning to abate a lead-containing substance in an exterior work site, the owner or its agent performing the abatement shall use the following procedures:

A) When liquid waste is produced by any abatement technique used, plastic sheeting at least 6 mils thick shall be placed on the ground, as close as possible to the building foundation, or on the floor when applicable. Sheeting placed on the ground or floor shall be raised at its edge and extended a sufficient distance to contain the liquid waste.

B) When nonliquid waste is produced by any abatement technique used, plastic sheeting at least 6 mils thick shall be placed on the ground, as close as possible to the building foundation, or on the floor when applicable. Sheeting placed on the ground or floor shall extend out from the foundation 3 feet per story being abated, with a minimum of 5 feet and a maximum of 20 feet.

C) Sheeting placed on an exterior floor shall cover the entire floor.

D) Sheeting shall be secured at the foundations and along all edges and seams.

E) If the wind speed causes visible dust during an exterior abatement project producing dry waste, abatement shall not be continued or performed unless vertical shrouds are erected.

F) When vacuum blasting or contained hydro-blasting, interior windows shall be sealed with plastic sheeting 6 mils thick and secured with water proof tape.

3) For all sealing and covering of interior and exterior abatement work the owner or its agent shall use the following:

A) plastic sheeting, at least 6 mils thick or equivalent;

B) duct tape or equivalent waterproof tape;

C) spray adhesives; or

D) other additional appropriate work practices to contain particulate lead or lead-containing liquids.

4) Alternative Procedures

A) The Department or delegate agency may allow an alternative procedure for abatement, containment or cleanup of a lead paint hazard, provided that the owner submits to the Department or delegate agency a written description of the alternative procedures that demonstrates to the satisfaction of the Department that the proposed alternative procedure provides a level of abatement and safety equivalent to the requirements of this Section. The delegate agency shall send a copy of the request and the delegate agency's response to the Department for its records.

B) In all cases in which the Department or delegate agency allows the use of an alternative procedure under subsection (n)(4)(A) above, the owner and occupant shall, for a one-year period after completion of the lead abatement project, permit the Department or delegate agency to enter and inspect the area of abatement for the purpose of determining the effectiveness and durability of the allowed alternative procedure.

o) Cleanup of Interior Work Site. Refer to Appendix D of this Part if a negative pressure system is used. After completion of the removal, replacement, enclosure, encapsulation, or reversal involved in an abatement project, the owner or its agent shall:

1) deposit all lead waste, including sealing tape and plastic sheeting, in double plastic bags at least 4 mils thick or single bags 6 mils thick or equivalent, and seal the bags;

2) before washing, vacuum-clean all surfaces in the work site including woodwork, walls, windows, window wells, and floors with a HEPA vacuum;

3) after vacuum-cleaning, wet wash all surfaces in the work site

including woodwork, walls, windows, window wells, ceilings and floors with a solution containing trisodium phosphate mixed according to the manufacturer's directions, or a phosphate-free lead dissolving detergent; and

4) if visible residue remains after washing and allowing all surfaces to dry, vacuum all surfaces with HEPA vacuum, as described in subsection (o)(2) above; and

5) deposit all lead waste from clean-up, including mop heads, sponges, filters, and disposable clothing, in double plastic bags at least 4 mils thick or single bags 6 mils thick, and seal the bags.

p) Cleanup of Exterior Work Area. After completion of the replacement, removal, encapsulation, enclosure, or reversal involved in an exterior abatement or mitigation project, the owner or its agent shall:

1) recover all visible debris from exterior areas;

2) HEPA vacuum all porches that have been abated; and

3) wet wash all surfaces in the work site, including woodwork, windows, window wells, and floors, with a solution containing trisodium phosphate mixed according to the manufacturer's directions, or a phosphate-free lead dissolving detergent.

q) Waste Disposal

1) The owner or its agent of any dwelling who has conducted lead abatement that was prescribed by the Department or delegate agency shall contact the Illinois Environmental Protection Agency and local authorities to determine lead-based paint debris disposal requirements.

2) In addition, the owner or its agent shall:

A) remove lead waste from the site of an abatement project not later than 48 hours after completing the final cleanup;

B) place lead-based paint chips, debris, and lead dust in double 4-mil or single 6-mil polyethylene bags, or equivalent, that are air-tight and puncture-resistant. Pieces of wood or other large items that do not fit into plastic bags shall be wrapped with double 4-mil or single 6-mil plastic sheeting and sealed;

C) place all disposable cleaning materials, such as sponges, mop heads, filters, disposable clothing, and brooms in double 4-mil or single 6-mil plastic bags, or equivalent, and seal;

D) remove plastic sheeting and tape from covered surfaces. Prior to removing the plastic sheeting, the sheeting shall be lightly misted in order to keep dust down and folded inward to form tight small bundles to bag for disposal. All plastic sheeting shall be placed in double 4-mil or single 6-mil thick plastic bags, or equivalent, and shall be sealed;

E) bag and seal vacuum cleaner bags and filters in double 4-mil or single 6-mil thick plastic bags or equivalent;

F) place all contaminated clothing or clothing covers used during abatement and cleanup in plastic bags for disposal prior to leaving equipment room, work site or work area;

G) place solvent residues and residues from strippers in drums made from materials that cannot be dissolved or corroded by chemicals contained in those solvents and strippers. Solvents shall be tested to determine if they are hazardous. Solvents and caustic and acid waste shall not be stored in the same containers;

H) contain and properly dispose of all liquid waste, including lead dust contaminated wash water;

I) HEPA vacuum the exterior of all waste containers prior to removing the waste containers from the work site or area ~~and wet-wipe the containers from the work site or area~~ and wet wipe the containers to ensure that there is no residual contamination. Containers that have been cleaned shall be moved out of the work site or area into a designated storage area;

J) carefully place the containers into the truck or dumpster used for disposal; and

K) ensure that all waste is transported in covered vehicles to a landfill approved by the Illinois Environmental Protection Agency.

r) Repainting, Coating and Sealing. After cleaning, the owner or its agent shall repaint all abated surfaces with a paint that is not a lead-bearing substance or coat all surfaces from which lead paint has been removed with a solvent-free coating, except for those enclosed surfaces that have smooth, easily cleanable surfaces.

1) After painting or coating, the owner or its agent shall repeat the cleaning process in all interior work areas, except those painted with latex paint or coated with liquid encapsulant.

2) After completion of the cleaning, the owner or its agent shall seal all floors that have been abated in the work site with:

A) polyurethane;

B) gloss deck enamel;

C) a tight fitting vinyl floor covering; or

D) an equivalent impermeable material, if a smooth cleanable surface is not already present.

3) Alternative Procedures

A) The Department or delegate agency may allow an alternative procedure for abatement, containment or cleanup of a lead paint hazard, provided that the owner submits to the Department or delegate agency a written description of the alternative procedure that demonstrates to the satisfaction of the Department that the proposed alternative procedure provides a level of abatement and safety equivalent to the requirements of this Section. The delegate agency shall send a copy of the request and the delegate agency's

response to the Department for its records.

B) In all cases in which the Department or delegate agency allows the use of an alternative procedure under subsection (r)(3)(A) above, the owner and occupant shall, for a one-year period after completion of the lead abatement project, permit the Department or delegate agency to enter and inspect the area of abatement for the purpose of determining the effectiveness and durability of the allowed alternative procedure.

s) Procedures for Determining Compliance

1) The Department or delegate agency may inspect a work site or work area at any time during a lead abatement project to determine compliance with this Section.

A) The inspector shall notify the owner of the results of the inspection, and shall include the locations and characteristics of surfaces with inadequate treatment.

B) A lead abatement project shall be deemed to be in compliance with these regulations if:

i) Lead dust levels on horizontal interior surfaces are below 200 micrograms per square foot; except that lead dust levels on all interior and exterior floors shall be below 50 micrograms per square foot. ~~and~~

ii) All abated surfaces and all floors have been treated to provide smooth and easily cleanable surfaces.

2) Noncompliance. If the results of a lead dust analysis conducted do not meet the requirements of subsections (s)(1)(B)(i) or (ii) above, the owner or its agent shall perform a further cleanup as described in subsection (o). If results of the lead dust analysis meet the requirements of subsection (s)(1)(B)(i) or (ii) above, the Department or delegate agency shall state that the lead abatement project has been completed and complies with the Department's requirements. A statement of completion and compliance may not preclude the Department or delegate agency from taking any future enforcement action against the owner of the dwelling.

t) Records. The Department or delegate agency shall retain for 6 years the following information for every lead abatement project prescribed by the Department or delegate agency:

1) name and address of the contractor who performed the project and the owner;

2) the location of the project;

3) a summary of abatement techniques used to comply with Department or delegate agency prescribed corrective action;

4) the location of the disposal site of the discarded lead-based substances which were removed by a contractor from the work site; and

5) the starting and completion dates of the lead abatement project.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 24 Ill. Reg. 11974, effective ~~April 1, 2000~~)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Section 845.APPENDIX F Childhood Lead Risk Assessment Questionnaire

ILLINOIS DEPARTMENT OF PUBLIC HEALTH DIVISION OF FAMILY HEALTH CHILDHOOD LEAD RISK ASSESSMENT QUESTIONNAIRE

Medical evaluation of a patient to determine lead exposure includes knowledge of the child's geographic location and living conditions in combination with the history and physical exam. The first question in this process is:

DOES THE CHILD, AGES 6 MONTHS TO 24 MONTHS, LIVE IN A HIGH RISK ZIP CODE AREA (REFER TO ZIP CODES ON REVERSE SIDE)?
(If "N" continue with additional questions) **Y N**

ASSESSMENT OF ALL OTHER CHILDREN **Circle the appropriate response**

Does the child, ages 6 months to 24 months:

Live in or regularly visit a home or building (school or daycare) built before 1960? Y N

Live in or regularly visit a home or building built before 1960 which has recently been or is currently under renovation or remodeling? Y N

Live with a person whose occupation or hobby involves exposure to lead? Y N

Receive or have ever received herbal medicines or home remedies (see guidelines)? Y N

POPULATION BASED ASSESSMENT QUESTIONS
(Use at physician's discretion)

Live close to an active lead smelter, battery recycling plant, lead mine, and/or other industry likely to release lead into the environment? Y N

Does the family use imported or glazed ceramics for food preparation, storage or as dinnerware? Y N

Ever been to Central or South America or Mexico where lead exposure could potentially occur? Y N

CHILDREN WITH A POSITIVE RESPONSE TO ANY ONE OF THE QUESTIONS NOTED ABOVE WILL NEED BLOOD LEAD TESTING TO COMPLETE THE SCREENING PROCESS. DUE TO SIMILAR

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

ENVIRONMENTAL EXPOSURE, CHILDREN WITH SIBLINGS WHO HAVE ELEVATED BLOOD LEAD LEVELS SHOULD HAVE BLOOD LEAD TESTING.

The Lead Risk Assessment Tool may be used to complete the Lead Assessment component of the Well Child visit. The assessment is recommended annually for all children from 6 months through 24 months of age.

POSSIBLE METHODS OF EXPOSURE

OCCUPATIONS

Auto repair
Battery manufacture or repair
Brass/copper foundry
Bridge reconstruction workers
Chemical/chemical preparation manufacturers
Construction workers
Gas station attendants
Glass manufacturers
Industrial machinery equipment operators
Lead smelters and refiners
Lead miner
Plastics manufacturers
Plumbers, pipe fitters
Police officers
Printers
Radiator repair
Rubber products manufacturers
Steel welders and cutters

HOBBIES

Car or boat repair
Casting lead figures (toy soldiers, etc.)
Furniture refinishing
Home remodeling
Jewelry making
Lead soldering (i.e., electronics)
Painting
Preparing lead shot, fishing sinkers, bullets
Reloading cartridges
Stained glass making
Target shooting at firing ranges

ENVIRONMENTAL

Ceramics/Pottery
Lead crystal
Lead paint
Lead painted homes
Lead soldered cans (imported)
Proximity to lead related industries
Renovating/remodeling older homes
Soil/dust near industries, roadways
Use of water from leaded pipes

OTHER

Asian Cosmetics
Folk remedies (greta, azarcon, pay-loo-ah, ghasard, Hai ge fen, Bali Goli, Kandu, Kohl, X-yoo-Fa, Mai ge fen and poying ton)
Imported food in lead soldered cans

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

HIGH RISK ZIP CODE — Blood test mandatory. Repeat as noted in Guidelines. Risk Assessment Questionnaire

LOW RISK ZIP CODES — Blood lead test required for any yes answer. Follow-up as indicated in Guidelines. No blood lead test required when all answers are no. Reassess annually at each Well Child visit.

Pediatric Lead Poisoning High Risk ZIP Code Areas

Adams	61349	62531	62433	62863
62301	61361	62540	62449	
62312	61362	62546	62451	**Effingham**
62324	61368	62550	62454	62414
62325	61374	62557	62464	62426
62338	61376	62568	62466	
62339	61421			**Fayette**
62343		**Clark**	**Cumberland**	62262
62346	**Calhoun**	62420	62420	62414
62348	62006	62442	62428	62418
62351	62013	62477	62432	62458
62359	62036		62435	62471
62365	62045	**Clay**	62468	62838
	62047	62426		62857
Alexander	62053	62824	**DeWitt**	62880
62913	62065	62839	61727	62885
62914	62070	62847		
62961	62355	62858	**DeKalb**	**Ford**
62962	62361		60550	60919
62993		**Clinton**	60556	60933
	Carroll	62471	61353	60946
Bond	61014	62801		60952
62086	61046		**Douglas**	60957
62246	61051	**Coles**	61911	60959
62262	61053	61938	61913	60960
	61064		61930	60962
Boone	61074	**Cook**	61941	61773
None	61285	All Chicago	61942	
		ZIP Codes	61956	**Franklin**
Brown	**Cass**	60022		62805
62324	62617	60093	**DuPage**	62812
62353	62618	60153	None	62822
62375		60201		62874
62378	**Champaign**	60202	**Edgar**	62884
	61810	60305	61917	62896
Bureau	61816	60402	61924	62983
61314	61820	60406	61932	62999

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61524
61531
61542
61543
61544
61563

Gallatin
62867
62869
62954
62979

Greene
62016
62027
62031
62044
62050
62078
62081
62082
62092

Grundy
60474

Hamilton
62817
62828
62859
62860
62887

Hancock
62311
61845
61849
61851
61862
61868
61956

Christian
62075
62510
62919
62931
62955
62982

Henderson
61418
61454
61460
61469
61471
~~61476~~ 61478
62330

Henry
61234
61235
61238
61258
61274
61277
61413
61434
61443
61490

Iroquois
60912
60918
60924
60931
60938
60942
60945
60951
60953
60955
60956
60411
60426
60472
60501
60513
60546
60666

Crawford
62427
62950
62994

Jasper
62432
62448
62459
62475
62480

Jefferson
62810
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62851
62864

Jersey
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NOTICE OF ADOPTED AMENDMENTS

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(Source: Amended at 24 Ill. Reg. 11974, effective AUG 1 2000)

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NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Plumbers Licensing Code

2) Code Citation: 68 Ill. Adm. Code 750

3)

Section Numbers:	Adopted Action:
750.110	New Section
750.115	Amendment
750.200	New Section
750.205	Repealed
750.210	New Section
750.215	Repealed
750.220	New Section
750.225	Repealed
750.235	Repealed
750.245	Repealed
750.300	Amendment
750.310	Amendment
750.320	Amendment
750.330	Repealed
750.400	New Section
750.410	New Section
750.420	New Section
750.430	Amendment
750.500	New Section
750.510	New Section
750.520	New Section
750.530	New Section
750.540	Amendment
750.550	New Section
750.600	Amendment
750.700	New Section
750.710	New Section
750.720	New Section
750.730	New Section
750.800	New Section
750.900	Amendment
750.910	New Section
750.1000	New Section
750.1100	Amendment
750.1110	Amendment

4) Statutory Authority: Authorized by and implementing the Illinois Plumbing License Law [225 ILCS 320]

5) Effective Date of amendments: August 1, 2000

6) Does this rulemaking contain an automatic repeal date? No

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Date Notice of Proposed Rulemaking was Published in the Illinois Register: March 3, 2000 (24 Ill. Reg. 3480)

10) Has the Joint Committee on Administrative Rules issued a Statement of Objection to this rulemaking? No

11) Difference Between Proposal and Final Version: In Section 750.110, the definition of "agent" has been revised to clarify that designation of an agent by a sponsor shall be approved by the Department.

Section 750.400 has been modified to include the eligibility requirements for a retired plumber's license as follows:

> Retired Plumber's License. A licensed plumber in good standing who is at least 62 years old or is physically unable to perform the responsibilities of a plumber may voluntarily surrender to the Department his or her plumber's license in exchange for a retired plumber's license. A retired plumber shall not perform plumbing as defined in the Act, sponsor or supervise apprentice plumbers, inspect plumbing, nor act in contravention of the Act.

Section 750.530(c)(3) has been modified to require industry representatives who conduct a course of instruction in plumbing to be assisted by an Illinois licensed plumber during the presentation of the course.

Section 750.600 has been revised to specify that at least one member of every firm, association or partnership engaged in plumbing work, and at least one corporate officer of every corporation engaged in plumbing work, shall be a licensed plumber.

Sections 750.900 and 750.910 have been revised to state that disciplinary action that may be taken by the Department against a licensed plumber, apprentice plumber, or plumbing inspector for improper advertising may include an order of correction to a telecommunications carrier.

In addition, various typographical, grammatical and technical changes were made in response to comments from the Joint Committee on Administrative Rules.

12) Have all the changes agreed upon by the agency and the Joint Committee been made as indicated in the agreements issued by the Joint Committee?

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NOTICE OF ADOPTED AMENDMENTS

All changes agreed upon by the Department and the Joint Committee have been made as indicated in the agreements issued by the Joint Committee.

13) Will the rulemaking replace an emergency rulemaking currently in effect? No

14) Are there any other amendments pending on this Part? No

15) Summary and Purpose of amendments: This rulemaking will implement changes to the Illinois Plumbing License Law that require licensed plumbers to complete continuing education prior to annual license renewal and licensed plumbers found to have committed repeated Plumbing Code violations to complete additional continuing education. Standards for approval of continuing education providers, programs, and courses are added to the rules. The rulemaking also will implement revisions to the Law that authorize the Department to investigate persons who engage in the practice of plumbing or hold themselves out to be plumbers without being licensed under the Law. Actions that the Department may take against such persons, including civil penalties, are specified in this rulemaking. Additionally, licensing of retired plumbers and voluntary certification procedures, which include voluntary education, training, and experience standards, for local plumbing regulation and inspection program are specified in the amendments. Modifications to existing Sections of the rules are added to provide clarification to current policy concerning administration of the plumbers licensing examination, the duties of the State Board of Plumbing Examiners, and licensing requirements for plumbers and apprentice plumbers.

16) Information and questions regarding these adopted amendments shall be directed to:

Paul Thompson
Division of Legal Services
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
(217) 782-2043
(rules@idph.state.il.us).

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER IV: DEPARTMENT OF PUBLIC HEALTH

PART 750
PLUMBERS LICENSING CODE

SUBPART A: GENERAL

Section
750.100 Applicability
750.110 Definitions
750.115 Statutory Authority
750.120 Administrative Hearings

SUBPART B: STATE BOARD OF PLUMBING EXAMINERS

Section
750.200 Organization of the State Board of Plumbing Examiners
750.205 Election of Officers (Repealed)
750.210 Duties of the State Board of Plumbing Examiners
750.215 Duties of Chairman (Repealed)
750.220 Records of the State Board of Plumbing Examiners
750.225 Duties of Vice-Chairman (Repealed)
750.235 Quorum (Repealed)
750.245 Meetings (Repealed)

SUBPART C: ADMINISTRATION OF AND REQUIREMENTS FOR ADMISSION TO PLUMBING LICENSE EXAMINATION

Section
750.300 Requirements for Admission to the Plumbing License Examination ~~Exam~~
750.310 Administration of the Plumbing License Examination
750.320 Plumbing License Examination Results
750.330 Course Credit (Repealed)

SUBPART D: LICENSING OF PLUMBERS AND APPRENTICE PLUMBERS ~~PLUMBING PROGRAM FEES~~

Section
750.400 Licensing of Plumbers
750.410 Licensing of Apprentice Plumbers
750.420 Documentation Required for Sponsors of Apprentices
750.430 Plumbers' and Apprentice Plumbers' License Records

SUBPART E: CONTINUING EDUCATION REQUIREMENTS FOR LICENSED PLUMBERS AND DEPARTMENT APPROVAL OF PLUMBING COURSES

Section

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750.500 Continuing Education Requirements for Licensed Plumbers
750.510 Department Approval of Continuing Education Sponsors and Courses
750.520 Continuing Education Course Records
750.530 Department Approval and Evaluation of Courses of Instruction in Plumbing
750.540 Topics for Approved Programs of Instruction in Plumbing and Approved Continuing Education Courses ~~Evaluation of Course Instruction~~
750.550 Programs of Instruction and Practical Training in Plumbing Approved as Equivalent to Illinois Licensed Apprenticeship

SUBPART F: REQUIREMENTS FOR PLUMBING FIRMS

Section
750.600 Organization of ~~Training Requirements Pertaining to~~ Plumbing Firms

SUBPART G: CERTIFICATION OF PLUMBING INSPECTORS

Section
750.700 Purpose and Authority for Certification of Plumbing Inspectors
750.710 Certification of Plumbing Inspectors
750.720 Renewal of Plumbing Inspector Certification and Continuing Education Requirements for Certified Plumbing Inspectors
750.730 Responsibilities of Certified Plumbing Inspectors

SUBPART H: APPROVAL OF PLUMBING PROGRAMS ESTABLISHED BY GOVERNMENTAL UNITS

Section
750.800 Governmental Units Establishing Plumbing Programs

SUBPART I: VIOLATIONS OF PLUMBER'S LICENSE AND PLUMBING INSPECTOR'S CERTIFICATION

Section
750.900 Plumber's and Apprentice Plumber's License Violations ~~Plumbing License Revocation~~
750.910 Certified Plumbing Inspector Violations

SUBPART J: CIVIL PENALTIES FOR UNLICENSED PLUMBERS

Section
750.1000 Civil Penalties for Unlicensed Plumbers

SUBPART K: ADMINISTRATIVE FEES

750.1100 Plumbers' and Apprentice Plumbers' Examination and Licensure Fees
750.1110 Other Fees

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AUTHORITY: Authorized by and implementing the Illinois Plumbing License Law [225 ILCS 320] and authorized by Sections 16 and 60(7) of the Civil Administrative Code of Illinois.

SOURCE: Adopted at 2 Ill. Reg. 40, p. 1, effective October 1, 1978; codified at 5 Ill. Reg. 10870; Part repealed, new Part adopted at 13 Ill. Reg. 19564, effective December 1, 1989; emergency amendment at 16 Ill. Reg. 12785, effective July 30, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 417, effective December 28, 1992; recodified at 23 Ill. Reg. 14649; amended at 24 Ill. Reg. 12019, effective AUG 01 2000.

SUBPART A: GENERAL

Section 750.110 Definitions

For the purposes of this Part:

"Act" means the Illinois Plumbing License Law [225 ILCS 320].

"Agent" means an Illinois licensed plumber designated by a sponsor of an apprentice plumber as responsible for supervision of the apprentice plumber, with prior approval from the Department.

"Apprentice plumber" means any licensed person who is learning and performing plumbing under the supervision of a sponsor or his agent in accordance with the provisions of the *Act.* (Section 2 of the Act)

"Approved apprenticeship program" means an apprenticeship program approved by the U.S. Department of Labor's Bureau of Apprenticeship and Training and the Department under this Part, including Joint Apprenticeship Committee (JAC) Programs. (Section 2 of the Act)

"Board" means the Illinois State Board of Plumbing Examiners. (Section 2 of the Act)

"Certification" means the act of obtaining or holding a certificate of competency in plumbing inspection from the Department, pursuant to this Part.

"Certified plumbing inspector" means any licensed plumber to whom the Department has issued a certificate of competency to inspect plumbing in Illinois.

"Conflict of interest" means for a licensed plumbing inspector, or his or her agent or employee, to perform plumbing work and later conduct a certified inspection of the same plumbing work.

"Continuing education credit hour" means that 50 minutes of classroom

time, excluding breaks, is equivalent to one credit hour.

"Course" means any class, seminar or other program of instruction in plumbing that has been approved by the Department for the purpose of complying with continuing education requirements.

"Course sponsor" means the person or legal entity who is registered pursuant to this Part and who is responsible for conducting a continuing education course approved by the Department.

"Department" means the Illinois Department of Public Health, plumbing program. (Section 2 of the Act)

"Director" means the Director of the Illinois Department of Public Health. (Section 2 of the Act)

"Governmental unit" means a city, village, incorporated town, county or sanitary or water district.

"Incompetence" means conduct in the performance of plumbing work that indicates a lack of ability to discharge the duties required to protect the health, safety and welfare of the public; failure to maintain competency in applying the standards set forth in the Illinois Plumbing Code; lack of knowledge of the fundamental principles of plumbing inspection or an inability to apply these principles; or failure to maintain competency in current plumbing inspection practices.

"Misconduct" means an act performed in the discharge of enforcement duties that jeopardizes the interests of the public, including violation of federal or State laws, local ordinances or administrative rules relating to the position, preparation of deficient or falsified reports, failure to submit information or reports required by law or contract when requested by the municipality or the Department, conduct that evidences a lack of trustworthiness, misrepresentation of qualifications such as education, experience or certification, illegal entry of premises, misuse of funds, or misrepresentation of authority.

"Retired plumber" means any licensed plumber in good standing who meets the requirements of the *Act and* this Part *to be licensed as a retired plumber and voluntarily surrenders his plumber's license to the Department, in exchange for a retired plumber's license.* (Section 2 of the Act)

"Revoke" means to permanently remove the plumbing license of a licensed plumber for violations of the Illinois Plumbing License Law, Illinois Plumbing Code or this Part.

"Sponsor" means an Illinois licensed plumber or an approved apprenticeship program that has accepted an individual as an Illinois licensed apprentice plumber for education and training in the field of plumbing and whose name and license number or apprenticeship program number shall appear on the individual's application for an apprentice plumber's license. (Section 2 of the Act)

"Suspend" means to temporarily remove the plumbing license of a licensed plumber for violations of the Illinois Plumbing License Law, Illinois Plumbing Code or this Part.

"Telecommunications carrier" means a telecommunications carrier as defined in the Public Utilities Act. (Section 2 of the Act)

(Source: Added at 24 Ill. Reg. 12019, effective AUG 01 2000)

Section 750.115 Statutory Authority

These rules are promulgated under authority of the Illinois Plumbing License Law [225 ILCS 320] ~~(Ill. Rev. Stat. 1991, ch. 111, par. 1101 et seq)~~.

(Source: Amended at 24 Ill. Reg. 12019, effective AUG 01 2000)

SUBPART B: STATE BOARD OF PLUMBING EXAMINERS

Section 750.200 Organization of the State Board of Plumbing Examiners

The State Board of Plumbing Examiners is comprised of 9 licensed plumbers who are appointed by the Director. A quorum of Board members must be present at all meetings convened by the Chairman of the State Board of Plumbing Examiners and at each plumbing license examination. Five members of the Board shall constitute a quorum.

(Source: Added at 24 Ill. Reg. 12019, effective AUG 01 2000)

Section 750.205 Election of Officers (Repealed)

~~At the first regularly scheduled meeting of the Board of Plumbing Examiners in each calendar year, the Board shall elect a Chairman and Vice Chairman.~~

(Source: Repealed at 24 Ill. Reg. 12019, effective AUG 01 2000)

Section 750.210 Duties of the State Board of Plumbing Examiners

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The State Board of Plumbing Examiners, as provided in the Illinois Plumbing License Law, exercises its duties under the supervision of the Department by:

a) preparing subject matter for the plumbing license examination;
b) assisting the Department in administering the plumbing license examination;
c) grading completed plumbing license examinations and reporting the results to the Director;
d) suggesting revisions to rules governing the plumbing license examination and hearings for suspension, revocation or reinstatement; and
e) submitting recommendations to the Director for the efficient administration of the Illinois Plumbing License Law.

(Source: Added at 24 Ill. Reg. 12019, effective AUG 01 2000)

Section 750.215 Duties of Chairman (Repealed)

~~Duties of the Chairman shall be as follows:~~

~~a) To preside over each plumbing license examination given to applicants for a plumber's license.~~
~~b) To preside over each meeting of the Board.~~
~~c) To assure that a quorum of Board members is present at each meeting of the Board and each plumbing license examination.~~
~~d) To assure that at least one member of the Board is present at each hearing held by the Department on the denial, suspension, revocation or reinstatement of plumbing licenses.~~

(Source: Repealed at 24 Ill. Reg. 12019, effective AUG 01 2000)

Section 750.220 Records of the State Board of Plumbing Examiners

a) Minutes shall be recorded at each meeting of the State Board of Plumbing Examiners. Such minutes shall be maintained and made available for public inspection in the central office of the Department.
b) Records, files, correspondence and examination data pertaining to the Board of Plumbing Examiners shall be filed and secured in the central office of the Department.
c) Applicants may, by appointment, review their examination results with the Department if requested in writing within 30 days following the examination date.

(Source: Added at 24 Ill. Reg. 12019, effective AUG 01 2000)

Section 750.225 Duties of Vice-Chairman (Repealed)

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~~Duties of the Vice-Chairman shall be the same as those of the Chairman in the event of the Chairman's absence.~~

(Source: Repealed at 24 Ill. Reg. 12019, effective AUG 01 2000)

Section 750.235 Quorum (Repealed)

~~Five (5) members of the Board shall constitute a quorum.~~

(Source: Repealed at 24 Ill. Reg. 12019, effective AUG 01 2000)

Section 750.245 Meetings (Repealed)

~~a) If it is necessary to convene a meeting of the Board or hold an examination when the Chairman and Vice-Chairman cannot attend, the Board member with the longest tenure on the Board that attends the meeting shall act as Chairman.~~
~~b) The Board shall meet on the first day of each examination as a minimum. Additional meetings may be convened as necessary at the request of the Department.~~
~~c) The Illinois Department of Public Health shall assure that the Board's meeting agenda is prepared, a written record of business conducted at each Board meeting is kept, and the records, files, correspondence and examination data pertaining to the Board of Plumbing Examiners' activities are maintained.~~
~~d) The written record or minutes of each meeting of the Board shall be signed by the Chairman and each Board member present. A copy of the signed record or minutes shall be provided to each Board member.~~
~~e) Records, files, correspondence and examination data pertaining to the Board of Plumbing Examiners shall be filed and secured in the central office of the Department.~~

(Source: Repealed at 24 Ill. Reg. 12019, effective AUG 01 2000)

SUBPART C: ADMINISTRATION OF AND REQUIREMENTS FOR ADMISSION TO PLUMBING LICENSE EXAMINATION

Section 750.300 Requirements for Admission to the Plumbing License Examination Exam

a) To ~~Each person desiring to~~ apply for admittance to the examination for a plumber's license, a person shall file an application for examination on forms provided by the Department.
 1) The application form ~~These forms~~ may be obtained by writing to the Illinois Department of Public Health, 828 S. Second Street

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~~525 West Jefferson Street~~, Springfield, Illinois 62704 ~~62761~~.

2) Applications will be accepted if postmarked at least 30 days before the examination date. On each examination date, not more than 50 applicants (not more than 40 during winter months) will be examined. The examination will be scheduled at least once every three months. The Department and the Board may schedule additional examination dates as they deem necessary, based on the number of applicants.

3) Examination dates and locations shall be established by the Department and the Board and shall be included with the examination application form.

b) For each application the following materials must be received by the Department, postmarked at least 30 days before the examination date: ~~A completed application (with a photograph of the face of the applicant at least 1 1/2 inches by 2 1/2 inches) must be filed at least 30 days prior to the examination date. Applications will be accepted if postmarked prior to the 30 day cutoff date and providing the number of applicants has not exceeded 100. Applicants in excess of 100 shall be scheduled for the next examination(s). Examination dates shall be established by the Department and the Board. The location and facilities for the examination shall be selected by the Department and shall be announced at the same time as the examination date.~~

1) a completed application form;

2) a photograph of the face of the applicant at least 1 1/2 inches by 2 1/2 inches;

3) proof of eligibility as specified in subsection (e);

4) the required non-refundable application fee as specified in Section 750.1100.

c) The applicant shall be a citizen of the United States or shall have declared his or her intent to become a citizen. (Notarized papers, such as "Intent to File for Citizenship", shall be submitted to the Department.) ~~Each applicant must send with the application the required application fee specified in Section 740.4000 of this Part.~~

d) The applicant shall have completed at least a 2 year course of study in a high school, or an equivalent course of study, equal to 10 credit hours; ~~Each applicant must have been an Illinois licensed apprentice plumber for at least four years or have submitted evidence that he has successfully completed an approved course of instruction in plumbing as defined in Section 750.3030 (a) and (b) of this Part. An applicant for licensing by the Department as an apprentice plumber shall apply on the application form provided by the Department. If the applicant served an apprenticeship, the application shall verify that the applicant was sponsored by an Illinois licensed plumber and shall contain the name and license number of the sponsor.~~

e) To be eligible for the plumbing license examination, an applicant shall possess one of the following combinations of experience and education and must provide proof of such experience and education as specified below: ~~Each applicant must submit evidence that he is a~~

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~~citizen of the United States or has declared his intention to become one. (Notarized papers such as "Intent to File for Citizenship Form N-315", "Naturalization Paper", shall be submitted to the Department.)~~

1) Illinois Licensed Apprentice Plumber

A) Each applicant must have served a minimum of 4 years as an Illinois licensed apprentice plumber.

B) Each applicant who has served an apprenticeship must be able to establish that he or she received instruction through practical experience under the supervision of a licensed plumber.

C) The term of apprenticeship shall be not less than 1400 hours per year, for a total of 5600 hours in 4 years.

2) Illinois Licensed Apprentice Plumber with Training or Education

A) Each applicant must have served at least 2 years as an Illinois licensed apprentice plumber and have 2 years of approved courses in plumbing (see Section 750.540) for a total of 5600 hours.

B) Proof of practical experience shall be provided as specified in subsection (e)(1)(B).

C) A person who submits evidence of classroom and/or laboratory training in a vocational or trade school, a branch of the military service, or a college or university shall be given credit hours at the rate of two credit hours for each classroom hour, not to exceed a maximum of 24 months' credit.

D) Evidence shall consist of transcripts, degrees, military service records and/or certificates of completion. If the course submitted by an applicant for the plumbing license examination has already been evaluated and approved by the Department, the applicant need only verify participation in the course.

3) Licensed Apprentice in Another State or Territory of the United States

A) Each applicant must have the equivalent of 4 years as a licensed apprentice in another state or territory of the United States.

B) Proof of practical experience shall be provided as specified in subsection (e)(1)(B).

C) A person who submits evidence of experience in plumbing through an apprentice plumbing program in another State or Territory of the United States, or a municipality therein, other than the State of Illinois shall be given credit on an hour for hour basis toward the minimum four years apprenticeship required.

4) A person who has completed a course of study approved by the Department as equivalent to a 4 year apprenticeship served by an Illinois licensed apprentice plumber.

A) An approved course of instruction in plumbing shall cover

the subject areas and provide the number of hours of instruction and practical training specified in Section 750.550. An approved course of instruction shall total 2800 hours of credit.

B) Evidence shall consist of transcripts, degrees, and/or certificates of completion to verify completion of a course that has been evaluated and approved by the Department.

5) Licensed Plumber in Another State or Territory of the United States with No Apprentice Plumber Program

A) Documents verifying licensure and plumbing experience and training will be considered on an hour for hour basis toward meeting the apprenticeship requirement of 1400 hours per year. A plumber would need to obtain documentation from the licensing state, municipality, or territory to verify to the Department that he/she was tested to obtain his/her license and that the test consisted of at least three areas -- knowledge of plumbing design, practical or working skill evaluation, and knowledge of plumbing standards applicable to the licensing entity's jurisdiction (see Section 750.310).

B) A copy of the rules from the licensing entity pertaining to the licensing of plumbers must accompany the examination application.

6) Licensed Plumber in A Foreign State

A) Each applicant shall have at least 2 years of experience as an Illinois licensed apprentice plumber or 2 years of courses in plumbing, approved in accordance with Section 750.540.

B) Documentation of applicant's license issued by a foreign state must be submitted.

~~f) A person who possesses a current plumber's license or expired license in a state or municipality other than Illinois which does not have reciprocity with Illinois may be admitted to the examination for an Illinois plumber's license if he submits a copy of his license and information required under subsections (i) and (j) below concerning experience in plumbing equivalent to four years licensed apprenticeship. Documents verifying licensure and plumbing experience and training will be considered on an hour for hour basis toward meeting the apprenticeship requirement of 1400 hours per year. The licensing state or municipality must verify to the Department that the licensed plumber was tested to obtain his license and that the test consisted of at least three areas (See Section 750.310) knowledge of plumbing design, practical or working skill evaluation, and knowledge of plumbing standards applicable to the licensing entity's jurisdiction.~~

~~g) A person who has been licensed as a plumber for five (5) consecutive years in a municipality or state other than the State of Illinois, that does not have a licensed apprenticeship program, may be admitted to the Illinois plumbing examination upon submission of written documentation and verification of such licensure from the licensing entity. A copy of the rules from the licensing entity pertaining to the licensing of plumbers and apprentice plumbers, must accompany the examination application.~~

~~h) An applicant from a foreign country, who holds a foreign plumbing license, shall meet the requirements of subsections (f) or (g) above and shall serve a two (2) year licensed apprenticeship in Illinois before being granted admission to the plumbing examination.~~

~~i) A person who submits evidence of experience in plumbing through an apprentice plumbing program in a state or municipality other than the State of Illinois shall be given credit on an hour for hour basis toward the minimum four years apprenticeship required.~~

~~j) A person who submits evidence of classroom and/or laboratory training in a vocational or trade school, a branch of the military service, or a college or university shall be given credit hours at the rate of two credit hours for each classroom hour toward the minimum 5,600 credit hours required. Evidence shall consist of transcripts, degrees, military service records and/or certificates of completion. If the course submitted by an applicant for the plumbing license examination has already been evaluated and approved by the Department, the applicant need only verify participation in the course.~~

~~k) Each applicant must submit evidence that he has completed at least a two year course of study in a high school or an equivalent course of study.~~

~~l) Each applicant who has served an apprenticeship must be able to establish that he was learning by practical experience under the supervision of a licensed plumber as documented in subsection (i) above. The term of apprenticeship shall be not less than four years (1400 credited hours per year) to be eligible for admittance to the plumbing exam.~~

~~m) Any applicant who fails to comply with the above requirements or lacks the qualifications will have his application for admittance to the examination denied.~~

(Source: Amended at 24 Ill. Reg. 12019, effective AUG 1 2000)

Section 750.310 Administration of the Plumbing License Examination

The examinations administered to applicants for a plumber's license shall be uniform and comprehensive and shall test applicants' knowledge and qualifications in the planning and design of plumbing systems; their knowledge, qualifications, and manual skills in plumbing; and their knowledge of the State's minimum code of standards relating to fixtures, materials, design and installation methods of plumbing systems (the Illinois Plumbing Code, 77 Ill. Adm. Code 890).

a) The examination for a plumber's license shall consist of the following

~~three-parts:~~

1) Written questions (true/false or multiple choice~~).~~. Questions will be based on ~~come from~~ the Illinois Plumbing Code ~~or relate to plumbing activities~~. All applicants shall be required to read the examination questions and write the answers unassisted.
2) Drawings and/or charts. The applicant will be required to complete ~~finalize~~ charts that show plumbing fixtures and that require drainage and vent lines to be added ~~indicated~~.
3) Practical (shop). Projects ~~will be assigned to each applicant~~ requiring copper, cast iron, lead and plastic to be assembled as indicated in the assignment will be assigned to each applicant. All three ~~(3)~~ parts of the practical examination shall be completed before any part is eligible for grading.

b) An applicant who is handicapped will be assisted with unloading, carrying, and reloading of tools or equipment; but the applicant must take all parts of the examination unassisted.

c) Each applicant will be responsible for providing his own tools and other required material. Each applicant will be advised in writing as to what to bring to the examination.

d) No persons other than the Board, Department staff, and those persons directly associated with the examinee for the transport of necessary equipment~~,~~ are permitted in the examination area.

e) Any examinee wearing a shirt, jacket, cap or any article of clothing bearing pictures, writing, inscriptions or logos of any kind will not be permitted into the exam. Safety glasses shall be worn at all times when in the shop. ~~The maximum grade value of each part of the examination shall be 100 points. An examinee must make an average of 75 or above on the examination and a grade of 61 or above on each part of the examination to pass.~~

f) Upon starting the examination, an examinee will not be permitted to leave the exam area without permission. ~~An examinee who fails to pass the examination shall be admitted to a subsequent regularly scheduled exam after filing a new application and fee. Such application and fee shall be submitted in accordance with Section 750.3000 (a), (b), and (c).~~

g) The maximum grade value of each part of the examination shall be 100 points. An examinee must make an average of 75 or above on the examination and a grade of 61 or above on each part of the examination to pass. ~~Examinees who fail to pass the examination for a plumber's license shall retake all parts of the examination.~~

h) An examinee who fails to pass the examination shall be admitted to a subsequent regularly scheduled exam after filing a retake application form and fee. Such application and fee shall be submitted in accordance with Section 750.300. ~~An examinee who is caught cheating during the course of an examination shall be immediately expelled from the examination in progress and shall appear before the Board of Plumbing Examiners and representatives of the Department on the day that such offense occurs. The Board shall recommend the examination be declared void and/or a hearing be convened by the Department to suspend the apprentice plumber's license if, by a preponderance of evidence, it is determined that the examinee is guilty of cheating. A written record of the proceedings shall be made and become a part of the examinee's file. The Board shall make as a part of the record its recommendations concerning the disposition of the case to the Department. The Board shall be advised of the final decision of the Department concerning the examinee.~~

i) An examinee who fails to pass the examination and applies to take the examination again shall retake all parts of the examination, even if the examinee passed one or more parts of the examination the first time it was taken.

j) An examinee who is observed cheating during the course of an examination shall be immediately expelled from the examination in progress and shall appear before the Board of Plumbing Examiners and representatives of the Department on the day that such offense occurs. The Board shall recommend the examination be declared void. A written record of the meeting shall be made and become a part of the examinee's file. The Board shall make as a part of the record its recommendations concerning the examinee and shall forward such recommendations to the Department.

1) The Department shall send to the applicant a notice of intent to deny or suspend the applicant's license. The applicant must request in writing a hearing within the time specified in the notice. If the applicant does not request a hearing in writing within the time specified in the notice, the applicant's right to a hearing shall be waived.
2) All hearings shall be conducted in accordance with the Department's Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100).
3) The Department shall advise the Board of its final decision concerning the examinee.

(Source: Amended at 24 Ill. Reg. 12019, effective JUN 01 2000)

Section 750.320 Plumbing License Examination Results

The name of each examinee and the results of the examination given to each examinee shall be recorded by written report of the State Board of Plumbing Examiners~~,~~ ~~and such report shall be signed by the presiding Board chairman and each member in attendance. A copy of the signed report shall be provided to the Director of the Department of Public Health.~~ The results of each exam shall be confidential until announced to the examinee. Upon signature by the Director, the examination results report will be considered final and approved by the Board and Department.

a) The ~~Upon finalization of the examination results, the~~ Department shall ~~by letter~~ notify each examinee in writing of the results of his or her

examination.

b) The application for examination, fee receipt, examination and ~~all~~ other ~~forms or~~ written materials deemed necessary shall be maintained by the Department ~~material pertaining to an examinee shall be kept in the examinee's file maintained by the Department~~.

c) An examinee may submit ~~register~~ a written complaint concerning the examination if he is dissatisfied with ~~the grade received or~~ the conduct of the examination. Such complaints shall be submitted in writing and must be received by the Department within 30 days after notification of the examination results. Complaints must be factual and state the basis being used by the examinee to allege improper conduct ~~or grading~~.

d) Upon receipt of a complaint, a meeting between the examinee and the Board will be set for the same date as ~~the scheduled for a meeting with the Board at~~ the next scheduled plumbing examination. The examinee will be provided an opportunity to meet with Department representatives prior to the Board meeting to attempt to resolve the complaint. A record of all such complaints and meetings shall be kept and made part of the examinee's file.

e) The examinee shall be entitled to take the examination again, at no charge, ~~a re examination~~ if the evidence presented ~~produced~~ before the Department and Board demonstrates that:

1) the examinee was compelled by the Department or the Board to take the test under conditions that ~~which~~ placed him at a disadvantage in relation to all other examinees; ~~(b)~~

2) that Board members or Department staff offered any special assistance to other examinees; or ~~(c)~~

3) that the examinee's test was not evaluated according to the same standard ~~which was~~ applied to the tests of all other examinees. Any grading errors by the Board or Department, discovered as a result of the review of the examinee's test, shall be corrected.

f) An apprentice plumber who has served an apprenticeship under the supervision/sponsorship of an Illinois licensed plumber ~~licensed Plumber~~ and has failed the examination three ~~(3)~~ times, shall be called before the Department and Board of Plumbing Examiners to determine compliance with the requirements for supervision of apprentices ~~this part and the Illinois Plumbing Code (77 Ill. Adm. Code 890)~~. The employer/sponsor ~~Employer/Sponsor~~ must accompany the apprentice at such meeting ~~hearing~~. An examinee who fails to appear shall be ineligible for admission to the next plumber's license examination and subject to license revocation. An employer/sponsor who fails to appear shall be subject to license revocation. ~~Failure of the examinee to appear shall preclude the applicant's admittance to the next examination. If the employer/sponsor fails to appear, he shall be subject to license revocation.~~

(Source: Amended at 24 Ill. Reg. 12019, effective AUG 1 2000)

Section 750.330 Course Credit (Repealed)

~~If the course claimed for credit by an applicant for the plumbing license examination has already been evaluated and approved by the Department, the applicant need only verify participation in the course. Documentation shall include appropriate copies of W-2 forms verifying employment, time sheets/work records from employers, military records, college transcripts, degrees and/or vocational or trade school transcripts or degrees.~~

(Source: Repealed at 24 Ill. Reg. 12019, effective AUG 1 2000)

SUBPART D: ~~PLUMBING PROGRAM FEES~~
LICENSING OF PLUMBERS AND APPRENTICE PLUMBERS

Section 750.400 Licensing of Plumbers

a) Initial License Examination. A person shall be licensed by the Department prior to engaging in plumbing activities. The Department shall issue a plumber's license to each qualified applicant. In order to qualify, an applicant shall:

1) Successfully pass the plumbing license examination.

2) Pay to the Department the required license fee.

b) License Renewal. All plumbers' licenses shall expire on April 30 of each year, except initial licenses issued after February 15 shall expire one year after the next April 30. A plumber's license may be renewed for a period of one year from each succeeding May 1 upon payment prior to May 1 of the required renewal fee. As a condition of renewal, a licensed plumber must provide proof of completion of four hours of continuing education in one or more courses approved by the Department.

c) License Reinstatement. *A plumber licensed pursuant to* the *Act whose license has been expired for a period of less than 5 years may apply to the Department for reinstatement of his or her plumber's license. The Department shall issue such license renewal provided the applicant pays to the Department all lapsed renewal fees, plus the reinstatement fee.* (Section 14 of the Act)

d) License Restoration. *A plumber licensed pursuant to* the *Act who has permitted his or her license to expire for more than 5 years may apply, in writing, to the Department for restoration of his or her license. The Department shall restore his or her license provided he or she pays to the Department the required restoration fee and successfully* passes *the examination for an Illinois plumber's license. The restoration fee includes the applicant's* first *examination fee. Failure by the applicant to successfully pass* the plumbing license examination *shall be sufficient grounds for the Department to withhold issuance of the requested restoration of the applicant's plumber's license. The applicant may retake the examination in accordance with*

the provisions of the Act. (Section 14 of the Act)

e) Retired Plumber's License. A licensed plumber in good standing who is at least 62 years old or is physically unable to perform the responsibilites of a plumber may voluntarily surrender to the Department his or her plumber's license in exchange for a retired plumber's license. A retired plumber shall not perform plumbing as defined in the Act, sponsor or supervise apprentice plumbers, inspect plumbing, nor act in contravention of the Act.

1) Retired Plumbers' Reinstatement. *A retired plumber licensed under the Act who has surrendered his or her plumber's license for a period of less than 5 years may apply to the Department for reinstatement of his or her plumber's license. The Department shall renew the license provided the applicant pays to the Department any reinstatement fee required by* Section 750.1100 of this Part. (Section 14 of the Act)

2) Retired Plumbers' Restoration. *A retired plumber licensed under the Act who has surrendered his or her plumber's license for a period of more than 5 years may apply in writing to the Department for restoration of his or her license. The Department shall restore his or her license provided he or she pays to the Department the restoration fee required by* Section 750.1100 *and successfully passes the examination for an Illinois plumber's license. The restoration fee includes the applicant's examination fee. Failure by the applicant to successfully pass the plumber's license examination shall be sufficient grounds for the Department to withhold issuance of the requested restoration of the applicant's plumber's license. The applicant may retake the examination in accordance with the provisions of* the Act. (Section 14 of the Act)

(Source: Added at 24 Ill. Reg. 12019, effective AUG 01 2000)

Section 750.410 Licensing of Apprentice Plumbers

a) Initial License. The Department shall issue an apprentice plumber's license to each qualified applicant. In order to qualify, an applicant shall:

1) Be at least 16 years of age.

2) Verify on the Department's application form that the applicant is sponsored by an Illinois licensed plumber. The name and license number of the Illinois licensed plumber or program sponsor shall be included on the application form.

3) Pay to the Department the required license fee.

b) Renewal. All plumbers' licenses shall expire on April 30 of each year, except initial licenses issued after February 15 shall expire one year after the next April 30. An apprentice plumber's license may be renewed for a period of one year from each succeeding May 1 upon payment prior to May 1 of the required renewal fee. No licensed apprentice plumber may serve more than a 6 year licensed apprenticeship period.

(Source: Added at 24 Ill. Reg. 12019, effective AUG 01 2000)

Section 750.420 Documentation Required for Sponsors of Apprentices

For all licensed plumbers sponsoring an apprentice, documentation shall be submitted to the Department showing the current status and position of the licensed plumber in the plumbing business. Such documentation shall be signed by the president of a firm, sole proprietorship, or association; by a general partner of a partnership; or by the secretary of the board of directors of a corporation. Acceptable documentation includes the following:

a) Corporations: Minutes of the meeting of the board of directors during which a licensed plumber was appointed to fill a corporate office provided for in the by-laws of the corporation. By-laws of the corporation must be submitted in addition to minutes if the licensed plumber is appointed to any corporate office other than president, vice-president, secretary or treasurer.

b) Partnerships: A copy of the written partnership agreement. If the written partnership agreement has been executed, a letter describing the partnership, business activities of the partnership, local business licenses, and the status of the licensed plumber within the partnership.

c) Sole Proprietorships, Firms and Associations: A letter describing the form of business, general business activities, local business licenses, and the status of the licensed plumber within the firm or association. A firm or association that is doing business as a corporation or partnership shall comply with subsections (a) and (b).

(Source: Added at 24 Ill. Reg. 12019, effective AUG 01 2000)

Section 750.430 Plumbers' and Apprentice Plumbers' License Records

The Department may destroy any record relating to a plumber's license or apprentice plumber's license on which there has been no activity, such as license renewal or restoration, within the previous five ~~twenty~~ years.

(Source: Amended at 24 Ill. Reg. 12019, effective AUG 01 2000)

SUBPART E: CONTINUING EDUCATION REQUIREMENTS FOR LICENSED PLUMBERS AND DEPARTMENT APPROVAL OF PLUMBING COURSES

Section 750.500 Continuing Education Requirements for Licensed Plumbers

a) Each licensed plumber shall, as a condition of each annual license renewal after the first license renewal, provide proof of completion of 4 hours of continuing education. Such continuing education hours must be completed in one or more courses offered by course sponsors approved by the Department pursuant to Section 750.510.

b) A licensed plumber is not required to complete continuing education for the year in which the person's plumbing license was initially issued.

c) A licensed retired plumber is not required to complete continuing education unless the licensed retired plumber wishes to restore his or her license to the status of a licensed plumber. The Department will determine the number of continuing education hours required for such a change in licensure, based on the length of time the plumber has been retired.

d) Licensed plumbers who have been found to have committed repeated violations of the Illinois Plumbing Code shall complete a minimum of 2 hours of additional continuing education conducted by the Department, at a time and location to be determined by the Department.

(Source: Added at 24 Ill. Reg. 12019, effective AUG 01 2000)

Section 750.510 Department Approval of Continuing Education Sponsors and Courses

The Department shall maintain a list of approved continuing education course sponsors. Sponsors may include universities, colleges, professional trade associations, unions, vocational schools, firms, individuals, corporations, or any entity that meets the criteria provided by the Department and the Board of Plumbing Examiners.

a) Registration. Each continuing education course sponsor shall register with the Department before submitting course materials for approval by the Department. Registration shall be valid for three years from the date of issuance.

1) Course sponsors shall register using a form provided by the Department and shall include:

A) the name, address, and phone and fax numbers of the applicant;

B) the names and addresses of any persons who have received or will receive any portion of revenues generated from the course.

2) The course sponsor shall report to the Department any change to the information submitted in the initial registration within 30 days after such change takes effect.

b) Continuing education course approval.

1) A separate application for approval must be submitted to the Department on forms provided by the Department for each course offered by a course sponsor.

2) An application for approval of a continuing education course may be submitted only by sponsors registered with and approved by the Department.

3) A continuing education course shall provide instruction in at least one of the subject areas specified in Section 750.540.

4) A course application shall include a course syllabus containing the following information: name and assigned number of the course, name and registration number of the sponsor, name of the instructor or presenter, an outline of the course, the amount of time needed to present the course, and the course objectives.

5) A syllabus is not required for seminars held at product shows, but the application for approval shall include the name and assigned number of the seminar, name and registration number of the sponsor, name of the instructor or presenter, the amount of time needed to present the seminar, and the objectives of the seminar.

6) A course application shall include the qualifications of the instructor or presenter.

7) The course sponsor shall report to the Department any change to the information submitted in the initial application for continuing education course approval within 30 days after such change takes effect.

8) Course approval is valid for three years from the date of issuance, unless changes in course information do not meet the approval criteria of this Section.

9) Courses will be assigned a course number. The course number and the sponsor's number shall appear on all advertisements for the course.

10) Seminars held at product shows may be approved for continuing education credit by the Department, based on the material presented and the length of the seminar. The sponsor or facilitator of the product show must be a registered course sponsor.

c) The Department may deny, suspend or revoke approval of any course sponsor or may issue a fine to any course sponsor who:

1) Attempts to obtain or obtains registration or course approval through fraudulent means, including false statements and misrepresentation of facts, whether intentional or through negligence;

2) Does not provide complete and accurate information in either the initial registration or in any notification of changes to such information;

3) Does not provide the Department with changes to the information submitted in the initial registration, within 30 days after such changes take effect;

4) Advertises a course as being approved by the Department before such approval is received;

5) Does not maintain records as required in subsection (c) of this

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6) Does not report information to the Department as required in subsections (a) and (b) of this Section.

(Source: Added at 24 Ill. Reg. 12019, effective AUG 01 2000)

Section 750.520 Continuing Education Course Records

a) Each registered continuing education course sponsor shall establish and maintain records for each course sponsored as follows:
 1) A certificate of completion in a format specified by the Department must be completed for each participant enrolled in an approved continuing education course. The form consists of three parts: the first copy shall be filed with the Department, the second part shall be maintained by the sponsor, and the third part shall be given to the participant upon completion of the course.
 2) An attendance sign-in/sign-out sheet shall be used for each course. This form shall be maintained with the course records.
 3) Information on each student (name, address, courses registered for, attendance, courses completed).

b) Random audits of a course sponsor's continuing education records may be conducted by the Department.

c) A representative of the Department may, at any time, attend a class to ensure that the course is meeting its stated objectives and that all applicable Department rules are being followed.

(Source: Added at 24 Ill. Reg. 12019, effective AUG 01 2000)

Section 750.530 Department Approval and Evaluation of Courses of Instruction in Plumbing

a) A college, university, trade school or vocational school that has established a program providing a course of instruction in plumbing may submit a letter to the Department requesting approval of its program or course of instruction.
 1) The request for approval shall include information on the curriculum offered by the program, qualifications of the instructors, and information indicating that the teaching facility to be used for the program provides both shop and classroom facilities.
 2) For a program to be approved, it must provide instruction in plumbing courses.

b) The Department shall evaluate a training program before making a determination to approve or deny a request for approval. Approval will be granted based on the information included in the request letter,

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including confirmation of the qualifications of the instructors, evidence that the program's courses provide instruction in the subject areas specified in Section 750.540, and determination that the teaching facility provides both shop and classroom facilities.

c) Each instructor participating in a program of instruction in plumbing shall be considered qualified by meeting one of the criteria specified in subsections (c)(1) through (3) below. Verification of such license or certificate shall be required by the Department. A copy of the instructor's teaching license will establish such verification.
 1) an Illinois licensed plumber;
 2) an individual who possesses a provisional vocational certificate, issued by the State Board of Education pursuant to Section 21-10 of the Illinois School Code [105 ILCS 5/21-10], in a field related to plumbing (such as hydraulics, pneumatics, or water chemistry).
 3) a representative of an industry or a manufacturing business related to plumbing, including, but not limited to, the copper industry, plastic pipe industry or cast iron industry. Courses that are taught by industry representatives shall be educational and shall not be sales oriented. Industry representatives shall be assisted by an Illinois licensed plumber during the presentation of a course of instruction.

d) The Department may evaluate an approved program to determine the ongoing effectiveness of the training program. An evaluation shall be conducted:
 1) as the result of a complaint to the Department;
 2) upon the failure of 25% of students from the program who complete the plumbing license examination; or
 3) as a result of changes in the curriculum.

e) The program's curriculum will be evaluated for compliance with the list of topics for courses of instruction in plumbing in Section 750.540.

f) The program's facilities will be evaluated for the type of tools, condition of tools, safety devices, and ventilation for the discharge of heat, smoke, and fumes.

g) The Department shall notify the training program sponsor of all deficiencies determined in the evaluation.
 1) The program sponsor shall contact the Department within 15 days after receiving the notice of deficiencies to arrange a plan of correction for the deficiencies. The program sponsor shall have 90 days from the date of the notice of deficiencies to remedy the deficiencies.
 2) If the deficiencies are not remedied within the time frame specified in subsection (a) above, the Department's approval shall be withdrawn in writing. Upon such action, the training program sponsor shall have the right to request a hearing. (See Section 750.120.)

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(Source: Added at 24 Ill. Reg. 12019, effective AUG 01 2000)

Section 750.540 Topics for Approved Programs of Instruction in Plumbing and Approved Continuing Education Courses ~~Evaluation of Course of Instruction~~

Approved courses of instruction in plumbing shall provide instruction in the topics specified in subsections (a) through (dd) below. Approved continuing education courses shall provide instruction in at least one of the topics specified below.

~~a) A college, university, trade school or vocational school which has established a program providing for a course(s) of instruction in plumbing may submit a letter to the Department requesting approval or recognition of its program or as an approved course of instruction in plumbing. For a facility to be approved as an approved course of instruction in plumbing, its program must provide for a minimum of 5,600 credit hours of instruction. Approval will be granted based on the information in the letter, confirmation of the instructors' qualifications, and determination that the teaching facility provides both shop and classroom facilities.~~

~~b) An approved course of instruction in plumbing shall include the following:~~

a) Public Health and its relationship to plumbing;

b) State of Illinois Plumbing License Law;

~~1A)~~ 1) administration and enforcement;

~~2B)~~ 2) licensing of apprentice plumbers and plumbers;

~~3C)~~ 3) plumbing code requirements;

~~4B)~~ 4) plumbing inspection;

c) Basic principles of plumbing;

d) Planning and designing a plumbing system including estimating, installation, repair, maintenance, alteration, extension, and dismantling;

e) Plumbing materials, fixtures, and equipment;

f) Joints and connections;

g) Traps and cleanouts;

h) Interceptors and separators;

i) Hangers and supports;

j) Indirect waste piping and special wastes;

k) Water supply and distribution system;

l) Public and private water supply systems;

m) Drainage system;

n) Private sewage disposal systems, municipal or public sewage disposal systems, and/or sanitary districts;

o) Vents and venting systems;

p) Inspection and testing of a plumbing system;

q) Sciences of pneumatics and hydraulics as they apply to plumbing;

r) Safety devices allied with a plumbing system;

s) Hot water systems and water heaters;

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t) Soldering, welding, caulking, and wiping;

u) Copper material plumbing system;

v) Glass material plumbing system;

w) Plastics and thermoplastics material plumbing system;

x) Cast iron plumbing system, including Durham system;

y) Job safety;

z) Use and care of tools and equipment;

aa) Handling and disposition of wastes that would damage a plumbing system and sewage disposal facilities;

bb) Alternate plumbing systems;

cc) Solar plumbing systems; and

dd) Pumping of wastes.

~~c) Each instructor participating in a course of instruction in plumbing shall be a licensed plumber or an individual possessing a provisional vocational certificate, issued by the Illinois Board of Education, in a field related to plumbing (such as hydraulics, pneumatics, water chemistry, etc.), or an individual who has graduated from a vocational or trade school in the field of plumbing. Verification of such license or certificate shall be required by the Department. A copy of the instructor's teaching license will establish such verification.~~

~~d) The Department shall evaluate a training facility prior to a decision to approve or deny an application. The Department shall evaluate a facility subsequent to an approval of such facility to substantiate the ongoing effectiveness of the training program. The training facility will be evaluated for the type of tools, condition of tools, safety devices and ventilation for the discharge of heat, smoke, and fumes. Such evaluation shall be conducted as the result of receipt of complaints, a failure rate of 25% of the examinees of the examination from the facility in question, or as a result of changes in the curriculum. The Department shall notify the training program of all deficiencies. If the deficiencies are not remedied within 90 days the Department's approval shall be withdrawn in writing. Upon such action, the training facility shall have the right to request a hearing. See Section 750.3060.~~

(Source: Amended at 24 Ill. Reg. 12019, effective AUG 01 2000)

Section 750.550 Programs of Instruction and Practical Training in Plumbing Approved as Equivalent to Illinois Licensed Apprenticeship

A program of instruction and practical training in plumbing that is approved as equivalent to 4 years of an Illinois licensed apprenticeship shall cover the following subject areas and provide the number of hours of instruction and practical training specified in this Section. An approved course of instruction shall total 2800 hours of credit.

Subject	Hours of Instruction

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Public health and its relationship to plumbing	140
State of Illinois Plumbing License Law	24
Administration and enforcement	40
Licensing of apprentice plumbers and plumbers	16
Plumbing Code requirements	20
Plumbing inspection	30
Basic principles of plumbing	40
Job safety	52
Sciences of pneumatics and hydraulics as they apply to plumbing	60
Use and care of tools and equipment	16
Plumbing materials, fixtures, and equipment	100
Joints and connections	81
Water supply and distribution system	120
Indirect waste piping and special wastes	90
Hangers and supports	20
Interceptors and separators	40
Traps and cleanouts	42
Drainage system	110
Vents and venting systems	134
Soldering, welding, caulking and wiping	128
Cast iron plumbing system, including Durham system	155
Copper material plumbing system	150
Glass material plumbing system	40
Plastics and thermoplastics material plumbing system	60

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Alternate plumbing systems	55
Solar plumbing systems	40
Hot water systems and water heaters	90
Safety devices allied with a plumbing system	50
Pumping of waste	63
Handling and disposition of wastes that would damage a plumbing system and sewage disposal facilities	120
Inspection and testing of a plumbing system	120
Private sewage disposal systems, municipal or public sewage disposal systems, and/or sanitary districts	120
Public and private water supply systems	134
Planning and designing a plumbing system including estimating, installation, repair, maintenance, alteration, extension, and dismantling	300

(Source: Added at 24 Ill. Reg. 12019, effective AUG 01 2000)

SUBPART F: REQUIREMENTS FOR PLUMBING FIRMS

Section 750.600 Organization of Plumbing Firms ~~Training---Requirements Pertaining to Plumbing Firms~~

At least one member of every firm, association or partnership engaged in plumbing work, and at least one corporate officer of every corporation engaged in plumbing work, shall be a licensed plumber. The licensed plumber who is a corporate officer shall be individually responsible for all plumbing work performed by employees of the corporation, as documented by payroll records, time sheets or W-2 forms. Acceptable documentation to prove compliance with this requirement includes the following: ~~a) At least one member of every firm, association or partnership engaged in plumbing work, and at least one corporate officer of every corporation engaged in plumbing work, shall be a licensed plumber.~~

~~b) For all persons sponsoring an apprentice, documentation shall be submitted showing the current status and position of the licensed plumber, and shall be signed by the president of a firm or association, by a general partner of a partnership, and by the secretary of the board of directors of a corporation. Documentation acceptable to the Department includes the following:~~

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a~~1~~) For corporations ~~Corporations~~: Minutes of the meeting of the board of directors during which a licensed plumber was appointed to fill a corporate office provided for in the by-laws of the corporation. By-Laws of the corporation must be submitted in addition to minutes if the licensed plumber is appointed to any corporate office other than president, vice-president, secretary or treasurer.

b~~2~~) For partnerships ~~Partnerships~~: A copy of the written partnership agreement. If the written partnership agreement has been executed, a letter describing the partnership, business activities of the partnership, local business licenses, and the status of the licensed plumber within the partnership.

c~~3~~) For sole proprietorships, firms and associations ~~Firms and Associations~~: A letter describing the form of business, general business activities, local business licenses, and the status of the licensed plumber within the firm or association. A firm or association which is doing business as a corporation or partnership shall comply with this Section ~~Subsections (a) and (b)~~.

(Source: Amended at 24 Ill. Reg. 12019, effective AUG 01 2000)

SUBPART G: CERTIFICATION OF PLUMBING INSPECTORS

Section 750.700 Purpose and Authority for Certification of Plumbing Inspectors

a) Applicability. The purpose of this Subpart is to promote effective and uniform enforcement of the Illinois Plumbing Code through State certification of plumbing inspectors. This Subpart establishes the standards and procedures for certification, and suspension and revocation of certification for plumbing inspectors. This Subpart applies to all persons and governmental units engaged in the administration and enforcement of the Plumbing Code or engaged in the education, training and testing of any person who applies to the Department for certification as a plumbing inspector.

b) Authority.

1) Departmental Authority. The Department of Public Health has been granted authority over certification of plumbing inspectors, and suspension and revocation of certification.

2) Governmental Unit Authority. All governmental units exercising jurisdiction over the construction and inspection of dwellings, pursuant to the Illinois Plumbing Code, may provide for inspection performed by plumbing inspectors certified under this Section.

(Source: Added at 24 Ill. Reg. 12019, effective AUG 01 2000)

Section 750.710 Certification of Plumbing Inspectors

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Any licensed plumber who meets the qualifications for a plumbing inspector specified in this Section and who pays to the Department the required fees specified in Section 750.1100 shall be issued a plumbing inspector's certification by the Department. The application form may be obtained by writing to the Illinois Department of Public Health, 828 S. Second Street, Springfield, Illinois 62704. Nothing in this Section shall prohibit a licensed plumber who does not apply for Department certification from working as a plumbing inspector. To qualify for certification as a plumbing inspector an applicant shall:

a) Be currently licensed by the Department as a plumber. An apprentice plumber's license or retired plumber's license cannot be used to fulfill this requirement.

b) Have held an Illinois plumbing license for at least 7 years. An apprentice plumber's license or retired plumber's license cannot be used to fulfill this requirement.

c) Have passed the examination administered by the Department for certification of plumbing inspectors.

1) Applications for the examination will be accepted if postmarked at least 30 days before the examination date.

2) Examinations shall be scheduled for May and November of each year. Examination dates and locations shall be established by the Department and the Board and shall be included with the examination application form.

(Source: Added at 24 Ill. Reg. 12019, effective AUG 01 2000)

Section 750.720 Renewal of Plumbing Inspector Certification and Continuing Education Requirements for Certified Plumbing Inspectors

a) All plumbing inspector certificates shall expire on April 30 of each year, except initial certifications issued after February 15 shall expire one year after the next April 30. Any certified plumbing inspector who desires to continue his or her certification shall apply for renewal each year. The Department shall mail each certified plumbing inspector an application for renewal.

b) Each certified plumbing inspector shall as a condition of each annual certification renewal after the first renewal provide to the Department proof of completion of continuing education courses. Continuing education is not required for the year in which the plumbing inspector's certification was initially issued.

c) Continuing education sponsors and courses shall be approved by the Department pursuant to Section 750.510 and 750.520 of this Part. Continuing education credit may be earned by certified plumbing inspectors only by attending Department-approved courses. Continuing education courses shall consist of 14 classroom hours of at least 50 minutes each as follows:

1) at least 6 classroom hours of courses conducted by the

Department; and

2) at least 8 classroom hours of courses conducted by continuing education sponsors approved by the Department.

d) The certified plumbing inspector shall complete, sign, and forward the renewal application and proof of continuing education, as required, to the Department, together with the appropriate fee. Upon receipt of a complete application and fee, the Department shall renew the certification.

(Source: Added at 24 Ill. Reg. 12019, effective AUG 0 1 2000)

Section 750.730 Responsibilities of Certified Plumbing Inspectors

Any plumbing inspector certified pursuant to this Part may inspect any private or public property for the purpose of investigating conditions relating to the enforcement of the Illinois Plumbing Code and the Illinois Plumbing License Law.

(Source: Added at 24 Ill. Reg. 12019, effective AUG 0 1 2000)

SUBPART H: APPROVAL OF PLUMBING PROGRAMS ESTABLISHED BY GOVERNMENTAL UNITS

Section 750.800 Governmental Units Establishing Plumbing Programs

a) This Part does not prohibit governmental units from enacting a minimum code of standards for the design of plumbing materials and the operation and maintenance of plumbing systems, and ordinances or rules for the inspection of plumbing systems. Any ordinances or rules adopted by governmental units shall be at least as stringent as the Illinois Plumbing Code, as required by Section 36 of the Act.

b) If a governmental unit adopts ordinances that are more stringent than the Illinois Plumbing Code, a copy of such ordinance or rule, including all amendments, shall be submitted to the Department for review. If such plan is approved by the Department, the ordinance shall prevail in lieu of the Illinois Plumbing Code. The Department shall issue written approval.

c) Review of Plumbing Programs of Governmental Units. The Department shall conduct inquiries, make inspections and review the plumbing programs operated by governmental units. This shall be done by an Illinois licensed plumber who is employed by the Department.

d) Governmental Units Establishing Plumbing Programs. Not less than once every three years, the Department shall evaluate each plumbing program operated by a governmental unit to determine whether that program is being operated under a rule or ordinance adopted in compliance with this Section. If the Department finds after investigation that a

plumbing program is not being operated or enforced as required, the Director shall give written notice of the findings to the chief administrative officer of the governmental unit. If the Department finds, not less than 30 days after the notice, that the program is not being conducted as required by existing ordinances or rules, the Director shall give written notice of its findings to the chief administrative officer of the governmental unit. After administrative hearing, as provided in Section 35 of the Act the Department may seek to enjoin the governmental unit from performing plumbing inspections and administering a plumbing program until approval is granted by the Department.

(Source: Added at 24 Ill. Reg. 12019, effective AUG 0 1 2000)

SUBPART I: VIOLATIONS OF PLUMBER'S LICENSE AND PLUMBING INSPECTOR'S CERTIFICATION

Section 750.900 Plumber's and Apprentice Plumber's License Violations ~~Plumbing License Revocation~~

a) The Department may take disciplinary action against a licensed plumber, licensed apprentice plumber, or plumbing inspector who is not certified by the Department for violations of the Act, this Part or the Illinois Plumbing Code. Pursuant to Section 20 of the Act, such action may include the revocation, suspension, or denial of a license issued by the Department; and under Section 5(b.10) of the Act may include an Order of Correction to a telecommunications carrier for improper advertising.

b) A violation, for the purposes of this Section, shall be considered to mean a finding of violation of a Section of the Act, this Part, or the Illinois Plumbing Code by the Director in a final order issued pursuant to the Act, and may include any one of the following acts:

1a) Any licensed plumber who permits his name or plumbing license number to be used to imply ~~indicate~~ he is a member of a sole proprietorship, an association, partnership or corporation, and evidence indicates he is not participating in the plumbing activities of the sole proprietorship, association, partnership or corporation ~~shall be subject to license revocation~~. Evidence used by the Department in making such a determination may include ~~be:~~ payroll, records, time sheets, W-2 forms and documents on file with the Secretary of State;~~.~~

2b) Any licensed plumber who refuses to correct Illinois Plumbing Code ~~plumbing code~~ violations as requested by the Department, ~~or~~ continues to install plumbing in violation of Plumbing Code requirements, or is found guilty of negligence or incompetence in the performance of plumbing ~~shall be subject to license revocation;~~

DEPARTMENT OF PUBLIC HEALTH

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3c) Any licensed plumber who employs individuals to install plumbing and fails or refuses to license them as an Illinois apprentice plumbers; ~~Apprentice--Plumber,--shall--be--subject--to--license revocation.~~

4d) Any licensed plumber who fails to adequately train apprentices under his employment or supervision in a manner qualifying them to pass the plumbing license ~~Plumbing License~~ examination ~~shall be--subject--to-license-revocation. See-Section-750.3020(f).~~ In reaching a finding of adequacy, the Department shall consider ~~look--at~~ such factors as number ~~.--Number~~ of hours worked by the apprentice, types and varieties of plumbing work performed and inspections of finished work;~~.~~

5e) Any licensed plumber or approved apprenticeship program that ~~who~~ sponsors an apprentice and does not directly supervise or employ the apprentice in the plumbing trade a minimum of 1400 hours a year; ~~the-apprentice-plumber-is-not-under-the-direct--supervision or--employment--of--that--plumber,--shall--be--subject-to-license revocation.~~

6) Any licensed plumber who does not complete continuing education as required by Section 750.500 for license renewal;

7) Any licensed plumber or approved apprenticeship program that fails to submit to the Department, within 15 days after an apprentice is no longer employed and supervised by that plumber or program, a letter stating that sponsorship of the apprentice has been canceled;

8) Any licensed plumber or licensed apprentice plumber who advertises his or her services as a certified plumbing inspector without obtaining certification from the Department or who uses or attempts to use the certificate of a certified plumbing inspector;

9) Any licensed apprentice plumber who performs plumbing work without the supervision of the sponsor/agent or approved apprenticeship program sponsoring the apprentice; or

10) Any licensed apprentice plumber who does not work in the plumbing trade for a minimum of 1400 hours a year or who does not fulfill all requirements of an approved apprenticeship program.

(Source: Amended at 24 Ill. Reg. 12019, effective AUG 01 2000)

Section 750.910 Certified Plumbing Inspector Violations

The Department may take disciplinary action against a certified plumbing inspector for violations of the Act, this Part or the Illinois Plumbing Code. Pursuant to Section 20 of the Act, such action may include revocation, suspension, or denial of a plumbing license or plumbing inspector's certificate issued by the Department; and under Section 5(b.10) of the Act may include an Order of Correction to a telecommunications carrier for improper advertising.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

A violation, for the purposes of this Section, shall be considered to mean a finding of violation of a Section of the Act, or this Part, or the Illinois Plumbing Code by the Director in a final order issued pursuant to the Act and shall include the following acts:

a) a certified plumbing inspector presenting, as his or her own, the certificate of another person;

b) submitting false information or misrepresenting facts to the Department for the purpose of obtaining certification or renewal of certification as a plumbing inspector;

c) using or attempting to use a certificate that has been suspended or revoked;

d) operating a business organization advertising itself as a certified plumbing inspection business after the termination of its only certified plumbing inspector without another member of the business organization obtaining certification from the Department;

e) commencing or performing certified plumbing inspections for which a permit is required pursuant to the Illinois Plumbing Code without such permit being in effect;

f) willfully violating any State law or rule, or any municipal or county ordinance or regulation, relating to uncertified or certified plumbing inspections;

g) being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction that directly relates to the practice of plumbing;

h) violating any provision of the Illinois Plumbing License Law, this Part, the Illinois Plumbing Code, or any county or municipal plumbing laws or ordinances;

i) performing any act that assists a person or entity in engaging in the prohibited uncertified practice of inspecting plumbing, if the certified plumbing inspector knows or has reasonable grounds to know that the person or entity is uncertified; or

j) knowingly assisting or conspiring with an uncertified person by allowing one's plumbing inspector's certificate to be used by the uncertified person with intent to violate the requirements of Section 750.710. When a certified plumbing inspector allows his or her certificate to be used by one or more business organizations without participating in the operations, management, or control of such business organizations, such act constitutes prima facie evidence of an intent to evade the requirements of this Section.

(Source: Added at 24 Ill. Reg. 12019, effective AUG 01 2000)

SUBPART J: CIVIL PENALTIES FOR UNLICENSED PLUMBERS

Section 750.1000 Civil Penalties for Unlicensed Plumbers

a) A person who practices, offers to practice, or holds himself or

herself out to practice as a plumber without being licensed under the provisions of the Act may be subject to an Order of Correction to a telecommunications carrier for improper advertising under Section 5(b.10) of the Act and shall be issued a civil penalty under the following criteria:

1) First Offense
 A) Where no violations of the Illinois Plumbing Code (77 Ill. Adm. Code 890) are found, the person:
 i) Shall pay a civil penalty of $1000;
 ii) May be referred to the State's Attorney of the county or Attorney General for prosecution under Section 29 of the Act.
 B) Where violations of the Illinois Plumbing Code are found, the person:
 i) Shall pay a civil penalty of $3000. The Department may reduce this amount to $1,000 upon the condition that the unlicensed person pays for a licensed plumber to correct the violations of the Illinois Plumbing Code. The licensed plumber correcting the violations must be acceptable to the other party to the original contract or agreement;
 ii) May be referred to the State's Attorney of the county or Attorney General for prosecution under Section 29 of the Act.
2) Second Offense
 A) Where no violations of the Illinois Plumbing Code are found, the person:
 i) Shall pay a civil penalty of $3000;
 ii) May be referred to the State's Attorney of the county or Attorney General for prosecution under Section 29 of the Act.
 B) Where provisions of the Illinois Plumbing Code are found, the person:
 i) Shall pay a civil penalty of $5,000. The Department may reduce this amount to $3000 upon the condition that the unlicensed person pays for a licensed plumber to correct the violations of the Illinois Plumbing Code. The licensed plumber correcting the violations must be acceptable to the other party to the original contract or agreement;
 ii) May be referred to the State's Attorney of the county or Attorney General for prosecution under Section 29 of this Act.
3) Third and Subsequent Offenses
 A) The person shall pay a civil penalty of $5000;
 B) The person shall be referred to the State's Attorney of the county or Attorney General for prosecution under Section 29 of the Act.

b) A licensed plumber, firm, corporation, partnership, or association, who directs, authorizes or allows a person to practice, offer to practice, attempt to practice, or hold himself or herself out to practice as a plumber without being licensed under the provisions of the Act:
 1) First Offense
 A) Shall pay a civil penalty of $5000;
 B) Shall be required to pay for a licensed plumber to correct any violations of the Illinois Plumbing Code. The licensed plumber correcting the violations must be acceptable to the other party to the original contract or agreement;
 C) Shall have his or her plumbing license suspended;
 D) May be referred to the State's Attorney of the county or Attorney General for prosecution under Section 29 of the Act.
 2) Second Offense
 A) Shall pay a civil penalty of $5000;
 B) Shall be required to pay for a licensed plumber to correct any violations of the Illinois Plumbing Code. The licensed plumber correcting the violations must be acceptable to the other party to the original contract or agreement;
 C) Shall have his or her plumbing license revoked;
 D) Shall be referred to the State's Attorney of the county or Attorney General for prosecution under Section 29 of the Act.

(Source: Added at 24 Ill. Reg. 12019, effective AUG 01 2000)

SUBPART K: ADMINISTRATIVE FEES

Section 750.1100 Plumbers' and Apprentice Plumbers' Examination and Licensure Fees

The applicable fee shall be submitted to the Department with each application for examination, ~~or~~ licensure or certification as follows:

a) Plumber's Examination Fees

1)	Plumber's License Examination Fee when applicant is licensed as Man Apprentice Plumber in Illinois	$100~~.00~~
2)	Plumber's License Examination Fee when applicant is registered or licensed in a state other than Illinois	$125~~.00~~
3)	Plumber's License Re-Examination Fee	$100

4)	Plumber's License Re-Examination Fee when applicant is registered or licensed in a state other than Illinois	$100

b) Plumber's License Fees

1)	Plumber's License Fee (Initial or Renewal)	$100~~.00~~
2)	Apprentice Plumber's License Fee (Initial or Renewal)	$50~~.00~~
3)	Late Fee or Reinstatement Fee for any License Renewal (in addition to all lapsed renewal fees)	$25~~.00~~
4)	Restoration of a Plumber's Expired License Fee (includes the fee for the first examination only)	$100 ~~500.00~~
5)	Duplicate License Fee ~~Fee--for--a--dishonored,--negotiable-instrument including, but--not--limited--to,---returned---checks---or insufficient payment~~	$25~~.00~~ ~~10.00~~
6)	Retired Plumber's Annual License	$25
7)	Reinstatement of a Retired Plumber's License with fewer than five years	$100
8)	Restoration of a Retired Plumber's License of more than five years (includes fee for first examination only)	$100
9)	Retired Plumber's License Fee after Passing Examination	$100

c) Certified Plumbing Inspector's Examination and Certification Fees

1)	Plumbing Inspector's Examination	$100
2)	Plumbing Inspector's Certification Late Fee	$25

(Source: Amended at 24 Ill. Reg. 12019, effective AUG 01 2000)

Section 750.1110 Other Fees

a) Copies of the Illinois Plumbing Code may be obtained from the Department. The applicable fee shall be submitted with requests for copies as follows:

1a) One ~~free~~ copy of the current Illinois Plumbing Code ~~and--any subsequent--amendments~~ will be provided free of charge to each newly ~~licensed-plumber-and~~ licensed apprentice plumber. The fee for additional ~~subsequent-or-multiple~~ copies shall be $40 ~~$20.00~~ per copy.

2) One copy of amendments to the Illinois Plumbing Code (not including binder) will be provided free of charge to each Illinois licensed plumber and licensed apprentice plumber. The fee for additional copies shall be $20.

3) The fee for copies of the current Illinois Plumbing Code provided to persons other than licensed apprentice plumbers shall be $40.

4) The fee for copies of amendments to the Illinois Plumbing Code (not including binder) provided to persons other than Illinois licensed plumbers and licensed apprentice plumbers shall be $20.

5) The fee for the current Illinois Plumbing Code on CD Rom shall be $100.

~~b) The--fee--for--copies-provided-to-persons-other-than-licensed-plumbers and-licensed-apprentice-plumbers-shall-be-$20.00.~~

be) The fee for a dishonored, negotiable instrument including, but not limited to, returned checks or insufficient payment shall be $20 ~~$10.00~~.

(Source: Amended at 24 Ill. Reg. 12019, effective AUG 01 2000)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: The Illinois Water Well and Pump Installation Contractor's License Code

2) Code Citation: 77 Ill. Adm. Code 915

3)

Section Numbers:	Adopted Action:
915.60	New Section
915.70	New Section
915.80	New Section
915.90	New Section
915.100	New Section

4) Statutory Authority: Illinois Water Well and Pump Installation Contractor's Licensing Code [225 ILCS 345]

5) Effective Date of amendments: August 1, 2000

6) Does this rulemaking contain an automatic repeal Date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Date Notice of Proposed Rulemaking was Published in the Illinois Register: March 10, 2000 (24 Ill. Reg. 3730)

10) Has the Joint Committee on Administrative Rules issued a Statement of Objection to this rulemaking: No

11) Difference Between Proposal and Final Version: Various nonsubstantive typographical, grammatical and technical changes were made in response to comments from the Joint Committee on Administrative Rules.

12) Have all the changes agreed upon by the agency and the Joint Committee have been made as indicated in the agreements issued by the Joint Committee? All changes agreed upon by the Department and the Joint Committee have been made as indicated in the agreements issued by the Joint Committee.

13) Will the rulemaking replace an emergency rulemaking currently in effect? No

14) Are there any other amendments pending on this Part? No

15) Summary and Purpose of Amendments: Section 915.60 - This Section specifies procedures for renewing a license that has expired.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Section 915.70 - This Section is added to require all water well and pump installation contractors who apply for license renewal under the Illinois Water Well and Pump Installation Contractor's Licensing Code to attend once every two years a continuing education session approved by the Department.

Section 915.80 - This Section establishes requirements regarding Department approval of continuing education sessions, length of continuing education sessions and session notification to those enrolled.

Section 915.90 - This Section establishes procedures for written proof of attendance at continuing education sessions and submittal of proof of such attendance to the Department.

Section 915.100 - This Section specifies that licensed plumbers who install or repair water well pumps and pumping equipment are considered to be licensed as water well pump installation contractors.

16) Information and questions regarding these adopted amendments shall be directed to:

Paul Thompson
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
(217) 782-2043
(rules@idph.state.il.us)

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER r: WATER AND SEWAGE

PART 915
THE ILLINOIS WATER WELL AND PUMP INSTALLATION CONTRACTOR'S LICENSE CODE

Section
915.10 Applications
915.20 Examination Requirements
915.30 Statutory Authority
915.40 Supervision
915.50 Licensed Contractor Responsibility
915.60 Renewal of Expired License
915.70 Continuing Education Requirements for Licensed Water Well Contractors and Licensed Water Well Pump Installation Contractors
915.80 Continuing Education Sessions
915.90 Record of Completion
915.100 Plumbers Licensed as Water Well Pump Installation Contractors

AUTHORITY: Implementing and authorized by the Water Well and Pump Installation Contractor's License Act [225 ILCS 345].

SOURCE: Emergency rules adopted at 2 Ill. Reg. 9, p. 30, effective February 22, 1978, for a maximum of 150 days; adopted at 3 Ill. Reg. 10, p. 123, effective March 5, 1979; codified at 8 Ill. Reg. 8926; amended at 17 Ill. Reg. 4425, effective March 23, 1993; amended at 22 Ill. Reg. 4111, effective February 10, 1998; amended at 24 Ill. Reg. 12057, effective AUG 1 1 2000.

Section 915.60 Renewal of Expired License

a) A license that has been expired for 3 years or less may be restored upon payment of the lapsed license fees and a reinstatement fee as specified in the Act. In addition, proof must be provided that the contractor has attended in the preceding 2 years before the date of license application a continuing education session approved under Section 915.80.

b) A license that has been expired for more than 3 years may be reinstated if the contractor pays the lapsed fees, pays a reinstatement fee, submits an application for examination, and passes the examination for the license desired.

(Source: Added at 24 Ill. Reg. 12057, effective AUG 1 1 2000)

Section 915.70 Continuing Education Requirements for Licensed Water Well

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Contractors and Licensed Water Well Pump Installation Contractors

a) Frequency of Continuing Education.
 1) Contractors licensed under the Act who seek a renewal license shall provide proof of attendance at an approved continuing education session within the 2 years preceding any requested renewal. It is the responsibility of the licensed contractor to attend an approved continuing education session.
 2) Contractors issued a license under the Act must attend an approved continuing education session within 2 years after their licensure. When these contractors seek a renewal license, they shall provide proof of attendance at an approved continuing education session within the 2 years preceding the requested renewal. It is the responsibility of the licensed contractor to attend an approved continuing education session.

b) Length of Continuing Education Sessions. Each continuing education session shall consist of 6 classroom contact hours and shall be approved by the Department.

(Source: Added at 24 Ill. Reg. 12057, effective AUG 1 1 2000)

Section 915.80 Continuing Education Sessions

a) Approval of continuing education sessions. Each entity that has established or proposes to present a continuing education session under the Act shall request Department approval by submitting its continuing education program to the Department. These requests shall be submitted to the Department no later than 4 weeks before the date the program begins. A list of approved continuing education sessions shall be available from the Department. The Department shall approve those sessions that address all of the following topics:
 1) Water well construction and pump installation in general.
 2) Grouting.
 3) Water sample collection and sampling.
 4) Contamination of water supplies and grouting.
 5) Other relevant information necessary for the continued improvement of knowledge of a water well and pump installation contractor.

b) When requesting approval, the entities shall submit the following information to the Department:
 1) Title of session.
 2) Type of audience (water well contractors or water well pump installation contractors).
 3) Location of session.
 4) Names and qualifications of instructors or presenters.
 5) Brief description of each topic and amount of time for each topic.

6) Total classroom contact hours excluding breaks (a classroom contact hour is 60 minutes).

c) Notification. Each entity approved to conduct sessions shall be responsible for notifying licensed contractors of seminar dates and locations.

(Source: Added at 24 Ill. Reg. 12057, effective AUG 1 2000)

Section 915.90 Record of Completion

a) Responsibility of entity offering continuing education. Each entity approved by the Department to offer a continuing education session under this Part shall issue as proof of attendance a letter or certificate of completion to each licensed contractor attending the session. The letter or certificate shall certify that the licensed contractor has attended the required number of hours and shall include all of the following information:
 1) Name and license number of contractor.
 2) Name and organization conducting the session.
 3) Date, location, and title of the session.
 4) Number of classroom hours.

b) Attendance notification. Each entity approved to offer continuing education under this Part shall submit to the Department a typed listing of contractors who attended the continuing education session. The information provided shall include the information in subsection (a) and shall be submitted to the Department no later than 45 days after the date of the session.

c) Submittal of proof of attendance. It is the responsibility of each licensed contractor to submit to the Department proof of attendance at a continuing education session for the contractor's license to be renewed. The licensed contractor shall submit with the license renewal the certificate or letter provided by the instructing entity under subsection (a).

(Source: Added at 24 Ill. Reg. 12057, effective AUG 1 2000)

Section 915.100 Plumbers Licensed as Water Well Pump Installation Contractors

a) Licensed Plumbers. A licensed plumber who installs or repairs water well pumps and pumping equipment must obtain a license as a water well pump installation contractor.

b) Licensed Apprentice Plumbers. An apprentice plumber licensed under the Illinois Plumbing License Law may obtain a water well pump installation contractor's license provided the sponsor of the apprentice plumber is also a licensed water well pump installation contractor. Proof of the sponsor's name and water well pump

installation contractor license number shall be provided to the Department.

c) Persons licensed under the Illinois Plumbing License Law are not required to pay an application fee or annual license fee or take an examination; however, they must attend a continuing education session as described in Section 915.70. Licensed or apprentice plumbers who have not renewed their water well pump installation contractor's license must pay a reinstatement fee and meet all requirements of Section 915.70.

(Source: Added at 24 Ill. Reg. 12057, effective AUG 1 2000)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Automobile Renting Occupation Tax

2) Code Citation: 86 Ill. Adm. Code 180

3) Section Numbers: Adopted Action:
180.125 Amendment

4) Statutory Authority: 35 ILCS 155

5) Effective Date of Amendments: July 28, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: February 25, 2000, 24 Ill. Reg. 3092

10) Has JCAR issued a Statement of Objections to these Amendments? No

11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this amendment replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: P.A. 91-193 added provisions to the Automobile Renting Occupation Tax to amend the definition of "gross receipts." The amendment provides that "gross receipts" excludes receipts received by an automobile dealer from a manufacturer or service contract provider for the use of an automobile by a person while that person's automobile is being repaired by the dealer and the repair is made pursuant to a manufacturer's warranty or other service contract. This regulatory amendment reflects that statutory change.

16) Information and questions regarding this adopted amendment shall be directed to:

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Jerilynn Gorden
Senior Counsel-Sales & Excise Tax
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
(217) 782-6996

The full text of the adopted amendment begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 180
AUTOMOBILE RENTING OCCUPATION TAX

SUBPART A: NATURE OF THE TAX

Section
180.101 Character And Rate Of The Tax
180.105 Responsibility Of Trustees, Receivers, Executors Or Administrators
180.110 Occasional Rental Transactions
180.115 Habitual Rental Transactions

SUBPART B: GROSS RECEIPTS, AUTHORIZED DEDUCTIONS AND NONTAXABLE TRANSACTIONS

Section
180.120 The Meaning of Gross Receipts
180.125 Authorized Deductions from Gross Receipts
180.130 Nontaxable Transactions
180.135 Rentals for Re-rental

SUBPART C: RETURNS

Section
180.140 Monthly Tax Returns--When Due--Contents

SUBPART D: INCORPORATION BY REFERENCE

Section
180.145 Incorporation of Certain Retailers' Occupation Tax Regulations

AUTHORITY: Implementing the Automobile Renting Occupation and Use Tax Act [35 ILCS 155] and authorized by Section 39b3 of the Civil Administrative Code of Illinois [20 ILCS 2505/39b3]

SOURCE: Adopted and codified at 7 Ill. Reg. 9397, effective July 25, 1983; amended at 13 Ill. Reg. 9332, effective June 6, 1989; amended at 16 Ill. Reg. 4859, effective March 12, 1992; amended at 24 Ill. Reg. ~~12063~~ 12063, effective JUL 25 2000.

Section 180.125 Authorized Deductions from Gross Receipts

a) "Gross receipts" on which the Automobile Renting Occupation Tax must be computed do not include receipts from the following separately stated charges added to rentees' billings:
1)~~a)~~ charges added on account of the rentor's duty to collect the

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Automobile Renting Use Tax from rentees or passed on because of the rentor's liability under the Automobile Renting Occupation Tax or passed on because of the rentor's liability under Municipal, County, Regional Transportation Authority or Metro East Mass Transit District Automobile Renting Occupation Taxes;
2)~~b)~~ receipts from rentees in consideration of waivers of claims for loss or damage to automobiles rented;
3)~~c)~~ receipts from separately stated charges for insurance;
4)~~d)~~ receipts from separately stated charges for recovery of refueling costs;
5)~~e)~~ receipts from any other separately stated charges which are not for the use of tangible personal property.

b) *"Effective July 20, 1999, "gross receipts" does not include receipts received by an automobile dealer from a manufacturer or service contract provider for the use of an automobile by a person while that person's automobile is being repaired by that automobile dealer and the repair is made pursuant to a manufacturer's warranty or a service contract where a manufacturer or service contract provider reimburses that automobile dealer pursuant to a manufacturer's warranty or a service contract and the reimbursement is merely made to recover the costs of operating the automobile as a loaner vehicle.* [35 ILCS 155/2]
1) For example, an automobile dealer makes repairs for an automobile owner under the terms of a manufacturer's warranty. The manufacturer's warranty provides that the manufacturer will provide the owner with another automobile to drive while the owner's automobile is being repaired. Pursuant to the terms of an agreement between the manufacturer and the dealer, the dealer provides the owner with a replacement automobile either from its sales inventory or from its rental inventory. In exchange, the manufacturer compensates the dealer for that replacement automobile. However, under the terms of the agreement between the manufacturer and the dealer, that compensation is limited to an amount intended only to reimburse the dealer for the dealer's costs of operating the replacement automobile as a loaner vehicle. Compensation paid to a dealer by a manufacturer or service contract provider under these circumstances that merely reimburses the dealer for his cost of operating the replacement automobile as a loaner vehicle is not subject to the tax. However, if the dealer charges a customer amounts that exceed the compensation paid to him by the manufacturer or service contract provider as reimbursement for the cost of operating the replacement vehicle as a loaner vehicle, the excess receipts are subject to the tax.
A) Costs of operating the replacement automobile as a loaner vehicle may include the cost of paperwork to issue the loaner vehicle or to receive reimbursement for the manufacturer; time needed by the dealership employee to fill out the paperwork; preparing the loaner; giving keys to the

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customer; instructing the customer on use and when to return the loaner; depreciation of the loaner vehicle; cost of insurance on the loaner vehicle; needed time and materials used to clean the loaner vehicle when returned; and fueling and servicing the loaner vehicle.

B) In order to exclude receipts from a manufacturer or service contract provider that merely reimburse him for his costs of operating the replacement automobile as a loaner vehicle, a dealer must maintain books and records documenting such costs.

2) Sometimes, the dealer does not provide the owner with a replacement automobile from its own inventory. Rather, the automobile dealer rents an automobile from a separate automobile rentor and then provides that automobile to the owner whose automobile is being repaired pursuant to the manufacturer's warranty. In this situation, the dealer's rental from the automobile rentor is a non-taxable rental so long as all the requirements of Section 180.135 of this Part are satisfied. The dealer's subsequent provision of an automobile to the owner is non-taxable so long as the requirements of this subsection (b) are satisfied.

3) If an owner rents an automobile from an automobile rentor that is not the dealer making the repairs to his automobile, the exclusion set out in this subsection (b) is not available. In addition:

A) The exclusion does not apply even though the dealer reimburses the owner for the rental.

B) The exclusion does not apply even though the automobile rentor is a separate entity related to the automobile dealer. For example, if one person operates an automobile dealership as one corporation and an automobile rental business as a separate corporation, the procedure set out in subsection (b)(2) must be followed in order for the exclusion to apply.

(Source: Amended at 24 Ill. Reg. 12063, effective JUL 28 2000)

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1) Heading of the Part: Income Tax

2) Code Citation: 86 Ill. Adm. Code 100

3) Section Numbers: 100.2165 — Adopted Action: New Section

4) Statutory Authority: 35 ILCS 5/1401(a)

5) Effective Date of Rulemaking: July 26, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: April 28, 2000, 24 Ill. Reg. 6637

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammer and punctuation or technical. No substantive changes were made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this amendment replace an emergency rulemaking currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: This rulemaking reflects and clarifies the provisons of P.A. 91-0009, which provides an income tax credit for qualified education expenses incurred by a taxpayer that is the custodian of a qualifying pupil.

16) Information and questions regarding this adopted amendment shall be directed to:

Dana Kinion
Associate Counsel
Illinois Department of Revenue
Legal Services Office

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101 West Jefferson
Springfield, Illinois 62794
(217) 782-6996

The full text of the adopted amendment begins on the next page:

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100.2100 Replacement Tax Investment Credit Prior to January 1, 1994 (IITA 201(e))
100.2101 Replacement Tax Investment Credit (IITA 201(e))
100.2110 Investment Credit; Enterprise Zone (IITA 201(f))
100.2120 Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone (IITA 201(g))
100.2130 Investment Credit; High Impact Business (IITA 201(h))
100.2140 Credit Against Income Tax for Replacement Tax (IITA 201(i))
100.2150 Training Expense Credit (IITA 201(j))
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100.2195 Dependent Care Assistance Program Tax Credit (IITA 210)

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100.2200 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) - Scope
100.2210 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Definitions
100.2220 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Current Net Operating Losses; Offsets Between Members
100.2230 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Carrybacks and Carryforwards

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100.2240 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Effect of Combined Net Operating Loss in Computing Illinois Base Income
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TABLE B Example of Unitary Business Apportionment for Groups Which Include Members Using Three-Factor and Single-Factor Formulas

AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49 p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4642, effective April 14, 1981; amended at 5 Ill. Reg. 5537,

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effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective JUL 26 2000.

SUBPART B: CREDITS

Section 100.2165 Education Expense Credit (IITA 201(m))

a) *Beginning with tax years ending after December 31, 1999, a taxpayer*

who is the custodian of one or more qualifying pupils shall be allowed a credit against the tax imposed by subsections (a) and (b) of Section 201 of the Act for qualified education expenses incurred on behalf of the qualifying pupils (the "education expense credit"). *The education expense credit shall be equal to 25% of qualified education expenses, but the total education expense credit allowed to a family that is the custodian of qualifying pupils shall not exceed $500 in any tax year, regardless of the number of qualifying pupils. The education expense credit taken shall not reduce a taxpayer's liability under the Act to less than zero.* (IITA Section 201(m)) Therefore, no part of the education expense credit is refundable to the custodian in the event the custodian's tax liability is reduced to zero.

b) For a taxpayer to claim the education expense credit, the taxpayer must be the custodian of one or more qualifying pupils and have incurred qualified education expenses on behalf of the qualifying pupils.

1) *"Qualifying pupils" shall mean individuals* that are:

A) *residents of the State of Illinois,*

B) *under the age of 21 at the close of the school year for which a credit is sought, and*

C) *full time pupils enrolled in a kindergarten through twelfth grade education program at any school during the school year for which a credit is sought* (IITA Section 201(m)).

An individual under the age of 21 and graduating from the twelfth grade during a school year shall be considered a qualifying pupil for the year but only to the extent of qualified education expenses incurred by the custodian due to the qualifying pupil's enrollment in the twelfth grade.

2) *"Custodian" of qualifying pupils shall mean an Illinois resident(s) who is a parent, the parents, a legal guardian, or the legal guardians of the qualifying pupils* (IITA Section 201(m)).

A) A foster parent, or the foster parents, or an adoptive parent, or the adoptive parents shall be included within the meaning of parent or legal guardian for purposes of determining the custodian of qualifying pupils.

B) Custodian shall not include a parent or the parents of qualifying pupils whose parental rights over such qualifying pupils have been legally terminated.

C) The custodian must actually incur qualified education expenses in order to claim the education expense credit. Therefore, a custodian incurring qualified education expenses on behalf of qualifying pupils shall claim the education expense credit only to the extent of qualified education expenses actually paid for by that custodian.

D) The education expense credit claimed shall not exceed the $500 credit limit allowable to a family that is the custodian of qualifying pupils. Therefore, the divorced or unmarried parents of qualifying pupils, each of whom is the custodian of the qualifying pupils and each of whom incurs education expenses on behalf of such pupils, shall be considered the family of such qualifying pupils for purposes of the $500 credit limit.

3) *"School", for purposes of the education expense credit, means any public or nonpublic elementary or secondary school in Illinois that is in compliance with Title VI of the Civil Rights Act of 1964 and attendance at which satisfies the requirements of Section 26-1 of the School Code* [105 ILCS 5/26-1], *except that nothing shall be construed to require a child to attend any particular public or nonpublic school in order to qualify for the education expense credit* (IITA Section 201(m)). Schools that are not required to be in compliance with the Title VI of the Civil Rights Act of 1964 but attendance at which meets the compulsory education requirements of Section 26-1 of the School Code are included within the meaning of "school" for purposes of the education expense credit. Private schools providing educational instruction in the home, attendance at which meets the compulsory education requirements of Section 26-1 of the School Code, are included within the meaning of "school" for purposes of the education expense credit.

4) *"Qualified education expenses" shall mean amounts incurred on behalf of a qualifying pupil in excess of $250 for tuition, book fees, and lab fees at the school in which the qualifying pupil is enrolled during the regular school year* (IITA Section 201(m)). Amounts incurred for tuition, book fees and lab fees by a family that is the custodian of more than one qualifying pupil may aggregate all tuition, book fees and lab fees incurred by the family in arriving at qualified education expenses eligible for the credit.

A) Tuition is the amount paid to a school as a condition of enrollment for a quarter, semester or year term in a kindergarten through twelfth grade education program of the school. Enrollment in an education program shall mean admission to the full and regular schedule of classroom instruction of the school during the designated period. Tuition also includes amounts paid as a condition of enrollment on behalf of a school to cover costs of implementing and administering an education program.

B) Book fees are amounts paid for the use of books that are essential to a qualifying pupil's participation in the education program of the school. A book is essential when the school or an instructor of the school requires its use by the qualifying pupil in order to participate in and complete a course of the education program.

C) Lab fees are amounts paid for the use of supplies, equipment, materials or instruments that are essential to a

qualifying pupil's participation in a lab course of the school's education program. Supplies, equipment, materials or instruments are essential when the school or an instructor of the school requires their use by the qualifying pupil in order to participate in and complete a lab course of the education program. Lab courses include those courses that, in addition to classroom instruction by a teacher, provide an environment of organized activity involving observation, experimentation or practice in a course of study. Such courses of study include those courses with a scientific, musical, artistic, technical or language skill content. Lab fees may be in the nature of a rental fee for supplies, equipment, materials or instruments that are used in the lab course. Fees incurred for the purchase of supplies, equipment, materials or instruments used in a lab course and which are substantially consumed by the assignments and activities of the lab are also considered qualifying lab fees.

Any amount paid for the purchase of items that would be considered qualified education expenses but for the fact that the items are not substantially consumed during the school year and will remain the tangible personal property of a qualifying pupil or a custodian at the conclusion of the school year shall not be considered qualified education expenses. For purposes of this Section, an item is substantially consumed when, during the school year, the item is used to such an extent that its fair market value has been reduced to a de minimis amount.

c) Examples. Calculation of the education expense credit may be illustrated by the following examples:

1) Example 1. Family A is the custodian of two qualifying pupils. Family A incurs a total of $6,000 in tuition, book fees and lab fees for the education of both pupils during the calendar year. The first $250 incurred for tuition, book fees and lab fees is not included as a qualified education expense. The balance of $5,750 ($6,000 - $250) multiplied by 25% equals $1,437.50. Family A may only claim the maximum tax credit allowable of $500.

2) Example 2. Family B is the custodian of one qualifying pupil. Family B incurs a total of $2,250 in tuition, book fees and lab fees for the education of the qualifying pupil during the calendar year. Family B also incurs $200 for the purchase of a musical instrument used by the qualifying pupil while participating in the school band. The $200 incurred for the purchase of a musical instrument is an expense that does not qualify for the credit. The first $250 incurred for tuition, book fees and lab fees is not included as a qualified education expense. The balance of $2,000 ($2,250-$250) multiplied by 25% equals $500. Family B may claim the entire maximum tax credit allowable of $500.

3) Example 3. Family C is the custodian of four qualifying pupils. Family C incurs a total of $1,000 in book fees and lab fees for the education of all four qualifying pupils during the calendar year. Family C also incurs a total of $50 for the purchase of books used in completing book reports required by the school. The $50 incurred for the purchase of books is an expense that does not qualify for the credit. The first $250 incurred for book fees and lab fees is not included as a qualified education expense. The balance of $750 ($1,000 - $250) multiplied by 25% equals $187.50. Family C may claim a tax credit of $187.50.

d) To aid a custodian in claiming the education expense credit, a school should provide to the custodian a written receipt documenting education expenses paid to the school by the custodian on behalf of qualifying pupils during the calendar year. The written receipt should be provided to the custodian on or before January 31 of the succeeding calendar year. Where a school provides a written receipt to a custodian, it shall be a receipt prescribed by the Department which shall include the following information:

1) the designated calendar year during which the education expenses were paid,
2) the name and address of the school,
3) the name and address of the custodian,
4) the name(s) and social security number(s) of the qualifying pupil or pupils,
5) a list of education expense amounts paid for tuition, book fees and lab fees during the calendar year, and
6) the total of all such education expenses paid during the calendar year. All information contained on the written receipt provided by a school is deemed confidential information for use as supporting documentation of the education expense credit claimed and shall not be used for any other purpose.

e) A custodian shall use a school's written receipt of education expenses as documentation supporting the education expense credit claimed on the custodian's individual income tax return. A copy of the written receipt shall be filed with the return for the taxable year to which it relates. In the event a school's written receipt of education expenses is not made available to a custodian, the custodian shall complete and file with the custodian's return the schedule prescribed by the Department for taking the credit. The education expense credit shall not be taken without either a school's written receipt or a schedule being filed with the return. A return claiming the credit and filed without a school's written receipt or without the Department's prescribed schedule shall be deemed unprocessable for purposes of the application of penalties and interest under the Uniform Penalty and Interest Act [35 ILCS 735].

f) A custodian filing a return claiming the education expense credit shall maintain records of proof as to the education expenses paid for by the custodian. The custodian shall maintain the records for a

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period of not less than three years after the date the return on which the custodian claimed the education expense credit was filed. Such records maintained by the custodian shall be subject to inspection by the Department and its duly authorized agents and employees.

g) The education expense credit for qualified education expenses incurred must be claimed for the tax year in which the qualified education expenses are actually paid. Any part of the education expense credit not claimed or allowed in a given tax year shall not be carried forward or back to any other tax year. Likewise, where qualified education expenses are incurred in excess of the allowable education expense credit for any given tax year, the excess of qualified education expenses shall not be used in claiming the education expense credit for any other tax year.

(Source: Added at 24 Ill. Reg. 12068, effective JUL 26 2000)

DEPARTMENT OF REVENUE

NOTICE ADOPTED AMENDMENTS

1) Heading of the Part: Telecommunications Excise Tax

2) Code Citation: 86 Ill. Adm. Code 495

3) Section Numbers: Adopted Action:
495.135 New Section
495.140 New Section

4) Statutory Authority: 35 ILCS 630

5) Effective Date of Amendments: July 28, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: May 5, 2000, 24 Ill. Reg. 6864

10) Has JCAR issued a Statement of Objections to these Amendments? No

11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this amendment replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: This rulemaking amends the Telecommunications Excise Tax regulations by adding New Sections governing the imposition of the tax and the filing of returns.

16) Information and questions regarding this adopted amendment shall be directed to:

Gina Roccaforte
Associate Counsel
Illinois Department of Revenue
Legal Services Office

DEPARTMENT OF REVENUE

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101 West Jefferson
Springfield, Illinois 62794
(217) 782-6996

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF REVENUE

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 495
TELECOMMUNICATIONS EXCISE TAX

Section
495.100 Meaning of "Gross Charges"
495.105 Exemptions
495.110 Retailers
495.115 Interstate
495.120 Mobile Operations Reporting Option
495.125 Responsibility for Accounting and Payment of Tax
495.130 Credits
495.135 Tax Returns--When Due--Contents
495.140 Imposition of Telecommunications Excise Tax

AUTHORITY: Implementing the Telecommunications Excise Tax Act [35 ILCS 630] and authorized by Section 17 of the Telecommunications Excise Tax Act [35 ILCS 630/17].

SOURCE: Adopted at 14 Ill. Reg. 11321, effective July 1, 1990; amended at 21 Ill. Reg. 13658, effective September 29, 1997; amended at 22 Ill. Reg. 11886, effective July 1, 1998; amended at 24 Ill. Reg. 12082, effective JUL 28 2000.

Section 495.135 Tax Returns--When Due--Contents

a) Monthly Returns
On or before the 15th day of each calendar month, each retailer maintaining a place of business in this State shall make a return to the Department for the preceding calendar month, stating the following:
1) Retailer's name.
2) The address of the principal place of business, and the address of the principal place of business (if that is a different address) from which the retailer engages in the business of transmitting telecommunications.
3) Total amount of gross charges billed by the retailer during the preceding calendar month for providing telecommunications during such calendar month.
4) Total amount received by the retailer during the preceding calendar month on credit extended.
5) Deductions allowed by law.
6) Gross charges billed by the retailer during the preceding calendar month and upon the basis of which the tax is imposed.
7) Amount of tax (computed upon Item 6).
b) Quarterly Returns

If the retailer's average monthly tax billings due to the Department do not exceed $200, the Department may authorize the returns to be filed on a quarter annual basis, with the return for January, February, and March of a given year being due by April 15 of such year; with the return for April, May, and June of a given year being due by July 15 of such year; with the return for July, August, and September of a given year being due by October 15 of such year; and with the return for October, November, and December of a given year being due by January 15 of the following year. Such quarterly returns, as to form and substance, shall be subject to the same requirements as monthly returns.

c) Annual Returns

If the retailer is otherwise required to file a monthly or quarterly return and if the retailer's average monthly tax billings due to the Department do not exceed $50, the Department may authorize the return to be filed on an annual basis, with the return for a given year being due by January 15 of the following year. Such annual returns, as to form and substance, shall be subject to the same requirements as monthly returns.

d) Quarter Monthly Payments in Certain Instances

Each retailer whose average monthly liability to the Department was $10,000 or more during the preceding calendar year, excluding the month of highest liability and the month of lowest liability in such calendar year, and who is not operated by a unit of local government, shall make estimated payments to the Department on or before the 7th, 15th, 22nd and last day of the month during which tax collection liability to the Department is incurred in an amount not less than the lower of either 22.5% of the retailer's actual tax collections for the month or 25% of the retailer's actual tax collections for the same calendar month of the preceding year. The amount of such quarter monthly payments shall be credited against the final liability of the retailer's return for that month. Any outstanding credit, approved by the Department, arising from the retailer's overpayment of its final liability for any month may be applied to reduce the amount of any subsequent quarter monthly payment or credited against the final liability of the retailer's return for any subsequent month. If any quarter monthly payment is not paid at the time or in the amount required by this Section, the retailer shall be liable for penalty and interest on the difference between the minimum amount due as a payment and the amount of such payment actually and timely paid, except insofar as the retailer has previously made payments for that month to the Department in excess of the minimum payments previously due.

e) Direct Return by Taxpayer

When a taxpayer does not pay the Telecommunications Excise Tax to a retailer, such taxpayer shall file a return with the Department and pay the tax upon that portion of gross charges so paid to the retailer during the preceding calendar month by the 15th day of the month following that month. When a taxpayer pays the Telecommunications

Excise Tax directly to the Department, the Department (upon request from the taxpayer) shall issue an appropriate receipt to the taxpayer showing that the taxpayer has paid the tax to the Department. The receipt shall be sufficient to relieve the taxpayer from further liability for the amount of tax to which the receipt may refer.

(Source: Added at 24 Ill. Reg. 12082, effective JUL 28 2000)

Section 495.140 Imposition of Telecommunications Excise Tax

a) The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charge for such telecommunications purchased at retail from retailers.

b) The Telecommunications Excise Tax must be collected from a taxpayer by a "retailer maintaining a place of business in this State".

1) *"Retailer maintaining a place of business in this State" means and includes any retailer having or maintaining within this State, directly or by a subsidiary, an office, distribution facilities, transmission facilities, sales office, warehouse or other place of business, or any agent or other representative operating within this State under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such retailer or subsidiary is licensed to do business in this State.* (Section 2(m) of the Act)

2) Retailers maintaining a place of business in this State shall collect the tax from the taxpayer by adding the tax to the gross charge for the act or privilege of originating or receiving telecommunications in this State, when sold for use. Whenever possible, the tax shall be stated as a distinct item separate and apart from the gross charge for telecommunications.

(Source: Added at 24 Ill. Reg. 12082, effective JUL 28 2000)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Vehicle Use Tax

2) Code Citation: 86 Ill. Adm. Code 151

3)

Section Numbers:	Adopted Action:
151.101	Amendment
151.105	Amendment

4) Statutory Authority: 25 ILCS 5/3-1001

5) Effective Date of Amendments: July 28, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: May 5, 2000, 24 Ill. Reg. 6869

10) Has JCAR issued a Statement of Objections to these Amendments? No

11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this amendment replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: This rulemaking is a result of Public Act 88-194, which subjects gifts and transfers of motor vehicles to Vehicle Use Tax and provides that in the case of gifts and transfers without reasonable consideration, "selling price" shall be deemed to be the fair market value as determined by the Department.

16) Information and questions regarding this adopted amendment shall be directed to:

Gina Roccaforte
Associate Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
(217) 782-6996

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NOTICE OF ADOPTED AMENDMENTS

The full text of the adopted amendments begins on the next page:

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NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 151
VEHICLE USE TAX

Section
151.101 Nature of Vehicle Use Tax
151.105 Basis and Rate of the Tax
151.110 Title Application - Returns and Payment
151.115 Nontaxable Transactions

AUTHORITY: Implementing and authorized by Section 3-1005 of the Illinois Vehicle Title & Registration Law [625 ILCS 5/3-1005].

SOURCE: Adopted at 13 Ill. Reg. 14080, effective August 25, 1989; amended at 24 Ill. Reg. 12087, effective JUL 28 2000.

Section 151.101 Nature of Vehicle Use Tax

a) The Vehicle Use Tax is a privilege tax imposed on the privilege of using, in this State, motor vehicles of the First and Second Divisions, motorcycles, motor driven cycles, and motorized pedalcycles.

b) The tax applies to motor vehicles *acquired by gift, transfer, or purchase, and having a year model designation preceding the year of application for title by 10 or fewer years on and after October 1, 1985, and prior to January 1, 1988. On and after January 1, 1988, the tax shall apply to all motor vehicles without regard to model year.* Section 3-1001 of the Illinois Vehicle Title & Registration Law [625 ILCS 5/3-1001]. ~~{Ill. Rev. Stat. 1987, ch. 95 1/2, par. 3-1001.}~~

(Source: Amended at 24 Ill. Reg. 12087, effective JUL 28 2000)

Section 151.105 Basis and Rate of the Tax

a) *Prior to January 1, 1988, the rate of tax shall be 5% of the selling price for each purchase of a motor vehicle.*

b) *Except as hereinafter provided, beginning January 1, 1988, the rate of tax shall be as follows for transactions in which the selling price of the motor vehicle is less than $15,000:*

NUMBER OF YEARS TRANSPIRED AFTER MODEL YEAR OF MOTOR VEHICLE	APPLICABLE TAX
1 OR LESS	$390
2	290

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3	215
4	165
5	115
6	90
7	80
8	65
9	50
10	40
OVER 10	25

c) *Except as hereinafter provided, beginning January 1, 1988, the rate of tax shall be as follows for transactions in which the selling price of the motor vehicle is $15,000 or more:*

SELLING PRICE	APPLICABLE TAX
$15,000 - $19,999	$ 750
$20,000 - $24,999	$1,000
$25,000 - $29,999	$1,250
$30,000 and over	$1,500

d) Effective January 1, 1988, the tax rate shall be $15 for each motor vehicle acquired in the following transactions:

1) *When the transfer is a gift to a beneficiary in the administration of an estate;*

2) *When a motor vehicle which has once been subjected to the Illinois retailers' occupation tax or use tax is transferred in connection with the organization, reorganization, dissolution or partial liquidation of an incorporated or unincorporated business wherein the beneficial ownership is not changed;*

3) *When the transferee or purchaser is the spouse, mother, father, brother, sister or child of the transferor.* Section 3-1001 of the Illinois Vehicle Title & Registration Law.

e) A claim that a transaction is taxable under subsection (d)(3) ~~(c)(3)~~ of this Section must be supported by a certification of family relationship. The certificate must be executed by the transferee and submitted at the time of filing the return. The certification must include the transferor's name and address, the transferee's name and address and a statement that describes the family relationship between them.

f) *For a transaction in which a motorcycle, motor driven cycle or motorized pedalcycle is acquired the tax rate shall be $25.* Section 3-1001 of the Illinois Vehicle Title & Registration Law.

g) For a transaction in which an all terrain vehicle is acquired, the tax rate shall be $25~~.00~~.

h) For purposes of this Section, "selling price" means the consideration received for a motor vehicle subject to the tax imposed by this Section valued in money, whether received in money or otherwise,

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including cash, credits, service or property. In the case of gifts or transfers without reasonable consideration, "selling price" shall be deemed to be the fair market value as determined by the Department or the Department's vendor. In determining the fair market value, the Department or its vendor shall consider the year, make, model and Vehicle Identification Number.

(Source: Amended at 24 Ill. Reg. 12087, effective JUL 28 2000)

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1) Heading of the Part: School Bus Driver Permit

2) Code Citation: 92 Ill. Adm. Code 1035

3) Section Numbers: 1035.20 — Adopted Action: Amendment

4) Statutory Authority: Implemented and authorized by Public Act 88-612, effective July 1, 1995.

5) Effective Date of Amendment: July 31, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: 24 Ill. Reg. 5885 (April 7, 2000)

10) Has JCAR issued a Statement of Objection to this amendment? No None

11) Differences between proposal and final version: In subsection (h), new language was added to clarify that a driver who allows his or her license to expire for more than 30 days must be retested for tuberculosis because that person is, under the rule, a new applicant, and that the lapsed license does not imply any greater danger of tuberculosis.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements? Yes

13) Will this rulemaking replace an emergency amendment currently in effect? Yes

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendment: This rulemaking will require all initial applicants, as part of the medical examination for a school bus driver permit to be tested for tuberculosis; however, reapplicants will not be required to be retested for tuberculosis as a part of the annual medical examination unless, in the judgment of the examining physician, the test should be performed in order to determine if the applicant is physically qualified to operate a school bus. Any applicant who allows his/her school bus driver permit to expire for more than 30 days shall be required to be retested for tuberculosis prior to the issuance of a new

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school bus driver permit.

16) Information and questions regarding this adopted amendment shall be directed to:

Robert W. Mueller
Assistant General Counsel
Driver Services Department
2701 S. Dirksen Parkway
Springfield IL 62723
217/782-5356

The full text of the adopted amendment begins on the next page:

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TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATE

PART 1035
SCHOOL BUS DRIVER PERMIT

Section
1035.10 Definitions
1035.15 Requirements of Applicants for a School Bus Driver Permit
1035.20 Annual Medical Examination and Certificate
1035.25 Permit Application Process
1035.30 Training
1035.35 Denial, Cancellation, or Suspension of a School Bus Driver Permit
1035.40 Notice
1035.45 Employer Responsibility
1035.50 Hearings

AUTHORITY: Implementing Section 6-106.1, and authorized by Section 6-521 of the Illinois Vehicle Code.

SOURCE: Adopted at 19 Ill. Reg. 10716, effective July 11, 1995; amended at 24 Ill. Reg. 1269, effective January 10, 2000; amended at 24 Ill. Reg. 12092, effective JUL 31 2000.

Section 1035.20 Annual Medical Examination and Certificate

a) All applicants for a school bus driver permit must demonstrate physical fitness to operate school buses by undergoing a medical examination, including tests for drug and alcohol use, conducted by a licensed physician within 90 ~~ninety (90)~~ days prior to the date of application for such permit.

b) An applicant who within 90 days prior to the date of application has undergone a medical examination complying with Subpart E of 49 CFR 391 (1989)(no later amendments are incorporated herein) and/or drug tests complying with 49 CFR 40 (54 Fed. Reg. 49854, effective January 2, 1990) (no later amendments are incorporated herein) shall be exempt from the corresponding requirements of this Section, provided that the applicant submits to the Secretary of State a copy of the federal "medical examiner's certificate" (49 CFR 391.41(d)) and/or a copy of the "drug testing custody and control form" (49 CFR 40.23(a)) signed by the responsible physician.

c) Except as provided in subsection (b) of this Section, the medical examination for all applicants shall be performed in accordance with the provisions of this Section and 49 CFR 391.43(d). A form conforming to these requirements, as well as the medical examiner's certificate described in subsection (j)~~(i)~~ of this Section, can be obtained from the Secretary of State for the use of the examining physician.

d) Each applicant to be tested for drugs shall consent in writing to provide a urine specimen for this purpose as part of the applicant's annual medical examination and shall authorize the release of the results of such tests to the examining physician. Those persons responsible for collection of the specimen shall ensure that the specimen is not substituted, adulterated, or diluted by the applicant during the collection procedure. The specimen container shall be labeled to identify its source and shall be delivered to the testing laboratory by U.S. mail, personal delivery by the physician's staff, a professional messenger service, or by other means which preclude tampering with the specimen. Those persons responsible for collecting, processing, and testing the specimen shall maintain and be able to document a chain of custody for the specimen which ensures its integrity.

e) The specimen shall be tested for marijuana, cocaine, opiates, amphetamines and phencyclidine using the tests and standards for positive test results specified in 49 CFR 40.29(e) and (f). Testing shall be conducted by a laboratory certified by either the Illinois Department of Public Health pursuant to 77 Ill. Adm. Code 510 or the U.S. Department of Transportation pursuant to 49 CFR 40.

f) The laboratory shall report the test results only to the examining physician. The physician shall review confirmed positive test results in order to determine whether there is a legitimate medical explanation of legal drug use for each positive test result. The physician may, at his/her discretion, consult with any other physician whose expertise in the area of substance abuse may, in the examining physician's judgment, be helpful in reviewing test results. The physician shall record his/her findings on the applicant's health certificate form. If the physician determines that there is no legitimate medical explanation for a positive test result for one or more of the tested drugs, the applicant shall be ineligible to receive a school bus driver permit.

g) Each applicant, as part of the annual medical examination, shall also be tested to assist the physician in determining whether the applicant has a current clinical diagnosis of alcoholism. The physician shall record on the examination form those tests which were administered, as well as the physician's findings as to whether the applicant has a current clinical diagnosis of alcoholism. An applicant with a current clinical diagnosis of alcoholism shall be ineligible for a school bus driver permit.

h) Each initial applicant, as a part of the medical examination for a school bus driver permit, shall be tested for tuberculosis as outlined in subsection (i)(13) of this Section. Reapplicants will not be required to be retested for tuberculosis as part of the annual medical examination unless, in the judgement of the examining physician, the test should be performed in order to determine if the applicant is physically qualified to operate a school bus. Any applicant who allows his/her school bus permit to expire for more than 30 days is, pursuant to Section 1035.25(j) of this Part, considered a new applicant and, as such shall be required to be retested for tuberculosis.

i) An applicant shall be considered physically qualified to operate a school bus only if he or she:

1) has no loss or impairment of a hand, finger, arm, foot, or leg which would interfere with the safe operation of a school bus or has had such loss ~~loss(es)~~ or impairment ~~impairment(s)~~ compensated for in a manner satisfactory to the examining physician;

2) has no established medical history or clinical diagnosis of diabetes mellitis currently requiring insulin for control which is likely to interfere with the ability to control and drive a school bus safely;

3) has no current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis, or any other cardiovasculardisease of a variety known to be accompanied by syncope, dyspnea, collapse, or congestive cardiac failure;

4) has no established history or clinical diagnosis of a respiratory dysfunction likely to interfere with the ability to control and drive a school bus safely;

5) has no current clinical diagnosis of high blood pressure likely to interfere with the ability to control and drive a school bus safely;

6) has no established medical history or clinical diagnosis of rheumatic, arthritic, orthopedic, muscular, neuromuscular, or vascular disease likely to interfere with the ability to control and drive a school bus safely;

7) has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control and drive a school bus safely;

8) has no mental, nervous, organic or functional disease or psychiatric disorder likely to interfere with the ability to control and drive a school bus safely;

9) has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses, or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in each eye with or without corrective lenses, field of vision of at least 70 degrees in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, amber and green (i.e., no monocular individual may be considered qualified);

10) first perceives a forced whispered voice in the better ear at not less than 5 feet with or without a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500Hz, 1,000Hz

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and 2,000Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard Z24.5-1951;

11) does not use amphetamines, cocaine, marijuana, opiates, phencyclidine, or any other mind altering drug or substance, or any prescribed drug that may interfere with the ability to operate a school bus safely;

12) has no current clinical diagnosis of alcoholism; and

13) has a negative reading/test result on a tuberculosis test or has a positive result on a tuberculosis skin test and either:

A) is receiving prophylactic treatment, or

B) has inactive tuberculosis as diagnosed by X-ray.

j~~i~~) The examining physician's conclusion as to whether the person he/she examined is qualified to drive a school bus shall be recorded on a medical examiner's certificate with the following form:

MEDICAL EXAMINER'S CERTIFICATE

I certify that I have examined (driver's name (print)) in accordance with the provisions of 92 Illinois Administrative Code 1035.20 ~~Title 92, Illinois Administrative Code, Chapter II, Section 1035.20~~ (Pupil Transportation) and based upon the results of this examination, including the results of tests for alcohol and drug use required in Section 1035.20 ~~of this Part~~, I find that he/she is:

Qualified under the regulations

Qualified only when wearing corrective lenses

Qualified only when wearing a hearing aid

Not qualified under the regulations

Not qualified due to positive drug test

A completed examination form for this person is on file in my office at _____ .
(address)

_____ _____
Date of Examination Federal Expiration Date

_____ _____
Name of Examining Doctor Tel. No. of Examining Doctor

Signature of Examining Doctor

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Registration No. of Examining Doctor

Signature of Driver

Address of Driver

k~~j~~) One copy of the completed certificate is to be forwarded by the examining physician to the employing agency or organization of the applicant; one copy is to be retained by the applicant; and one copy is to be retained by the examining physician.

(Source: Amended at 24 Ill. Reg. 12082, effective JUL 31 2000)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Inspection Procedures for Type I School Buses

2) Code Citation: 92 Ill. Adm. Code 441

3)

Section Numbers:	Adopted Action:
441.40	Amend
APPENDIX J	Amend

4) Statutory Authority: Implementing and authorized by Article VIII of the Illinois Vehicle Equipment Law [625 ILCS 5/Ch. 12, Art. VIII] and the Illinois Vehicle Inspection Law [625 ILCS 5/Ch. 13].

5) Effective Date of amendments: July 31, 2000

6) Do this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: March 24, 2000, 24 Ill. Reg. 4928

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were necessary.

13) Will these amendments replace an emergency amendment currently in effect? Yes

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: This adopted amendment is identical to the text of the emergency amendment filed on March 10, 2000. The emergency amendment changed the Department's standards governing the size and shape of sun visors required to be installed and inspected on Type I school buses. This adopted amendment replaces the emergency amendment that expires August 7, 2000.

16) Information and questions regarding this adopted amendment shall be directed to:

Ms. Cathy Allen, Regulation Unit
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212
(217) 785-1181

The full text of the adopted amendments begins on the next page:

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TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER e: TRAFFIC SAFETY (EXCEPT HAZARDOUS MATERIALS)

PART 441
INSPECTION PROCEDURES FOR TYPE I SCHOOL BUSES

Section
441.10 Purpose and Scope
441.20 Application
441.25 Incorporation by Reference of Federal Regulations
441.30 Standards of Construction
441.40 Definitions
APPENDIX A Air Cleaner through Barrier, Guard
APPENDIX B Battery or Batteries through Bumper, Front
APPENDIX C Bumper, Rear through Drive Shaft Guard
APPENDIX D Electrical System through Fenders
APPENDIX E Filter, Oil through Frame and Body
APPENDIX F Fuel Storage and Delivery System through Horn
APPENDIX G Instruments and Instrument Panel through Locked Compartment
APPENDIX H Mirrors through Rub Rails
APPENDIX I Seat Belt, Driver's through Steps, Entrance
APPENDIX J Stop Signal Arm Panel through Trash Container (optional)
APPENDIX K Undercoating through Windshield Wipers
ILLUSTRATION A Stop Arm Panels
ILLUSTRATION B Exhaust Guidelines
ILLUSTRATION C Brake Inspection Report
ILLUSTRATION D Propane Decal
ILLUSTRATION E Driver's Pre-Trip Inspection Requirements and Sample Form (Repealed)
ILLUSTRATION F School Bus Emergency Exits

AUTHORITY: Implementing and authorized by Article VIII of the Illinois Vehicle Equipment Law [625 ILCS 5/Ch. 12, Art. VIII] and the Illinois Vehicle Inspection Law [625 ILCS 5/Ch. 13].

SOURCE: Adopted at 19 Ill. Reg. 4523, effective March 13, 1995; amended at 22 Ill. Reg. 11889, effective June 29, 1998; emergency amendment at 24 Ill. Reg. 4980, effective March 10, 1999, for a maximum of 150 days; amended a 24 Ill. Reg. 12099, effective JUL 31 2000.

Section 441.40 Definitions

"Body" - Portion of vehicle that encloses the occupant and cargo spaces and separates those spaces from the chassis frame, engine compartment, driveline, and other chassis components, except certain chassis controls used by the driver.

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"Body-on-Chassis" - Completed vehicle consisting of a passenger seating body mounted on a truck type chassis (or other separate chassis) so that the body and chassis are separate entities, although one may reinforce or brace the other.

"Bus" - Every motor vehicle, other than a commuter van, designed for carrying more than ten persons. (Section 1-107 of the Illinois Vehicle Code (the Code)) [625 ILCS 5/1-107]

"Chassis" - Every frame or supportive element of a school bus that contains but is not limited to the axles, engine, drive train, steering components, and suspension which the body is attached to. (Section 1-110.1 of the Code)

"Code" - The Illinois Vehicle Code [625 ILCS 5].

"Commercial Vehicle Safety Section" (CVSS) - A section of the Bureau of Safety Programs of the Division of Traffic Safety of the Illinois Department of Transportation.

"Department" - The Department of Transportation of the State of Illinois, acting directly or through its authorized agents or officers. (Section 13-100 of the Code)

"Empty Weight" - Unloaded vehicle weight; i.e., the weight of a vehicle with maximum capacity of all fluids necessary for operation of the vehicle but without cargo or occupant.

"Federal Motor Vehicle Safety Standards" (FMVSS) - The rules, regulations and standards set forth in 49 CFR 571.

"Gross Vehicle Weight Rating or GVWR" - The value specified by the manufacturer as the loaded weight of the school bus. (Section 12-800 of the Illinois Vehicle Equipment Law)

"Illinois Vehicle Equipment Law" - 625 ILCS 5/12-100 through 12-902

"Interstate School Bus" - Any school bus not owned by a school district designed to transport 16 or more persons, including the driver, that is used for interstate charter purposes (i.e., travels to another state). The bus must be marked with a federal Interstate Commerce Commission (ICC) number. Interstate school buses require an annual inspection that meets 49 CFR 396 - Appendix G as well as the semi-annual or 10,000 mile inspection required by 625 ILCS 5/13-101.

"Manufacturer" - (unless otherwise indicated at the point of use) means the person or organization whose name follows "MANUFACTURED BY" or "MFD BY" on the federal certification label.

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"Passenger" - Every occupant of the vehicle who is not the driver.

"Purchase Date" - Date when purchase transaction was completed, not when body or chassis was built.

"School Bus" -

Type I School Bus - A School Bus with gross vehicle weight rating of more than 10,000 pounds.

Type II School Bus - A School Bus with gross vehicle weight rating of 10,000 pounds or less. (Section 12-800 of the Illinois Vehicle Equipment Law)

Every motor vehicle, except as provided below, owned or operated by or for any of the following entities for the transportation of persons regularly enrolled as students in grade 12 or below in connection with any activity of such entity:

Any public or private primary or secondary school;

Any primary or secondary school operated by a religious institution; or

Any public, private or religious nursery school.

This definition shall not include the following:

A bus operated by a public utility, municipal corporation or common carrier authorized to conduct local or interurban transportation of passengers when such bus is not traveling a specific school bus route but is:

On a regularly scheduled route for the transportation of other fare paying passengers;

Furnishing charter service for the transportation of groups on field trips or other special trips or in connection with other special events; or

Being used for shuttle service between attendance centers or other educational facilities.

A motor vehicle of the first division.

A motor vehicle designed for the transportation of not less than 7 nor more than 16 persons that is operated by or for a public or private primary or secondary school, including any

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primary or secondary school operated by a religious institution, for the purpose of transporting not more than 15 students to and from interscholastic athletic or other interscholastic or school sponsored activities. (Section 1-182 of the Code)

"Seating Reference Point" - the unique design H-point, as defined in SAE J1100, which simulates the position of the pivot center of the human torso and thigh. Each school bus manufacturer utilizes different criteria to determine the specific seating reference point on passenger seats for vehicles they manufacture.

"Type I-A School Bus" means a term commonly used by school bus manufacturers to classify a school bus that is a conversion or body constructed upon a van-type or cutaway front-section vehicle with a left side driver's door, designed for carrying more than 10 persons. The Type I-A school bus has a Gross Vehicle Weight Rating (GVWR) of more than 10,000 pounds.

"Vehicle" -

First Division: Those motor vehicles which are designed for the carrying of not more than ten persons.

Second Division: Those vehicles which are designed for carrying more than ten persons, those designed or used for living quarters and those vehicles which are designed for pulling or carrying property, freight or cargo, those motor vehicles of the First Division remodelled for use and used as motor vehicles of the Second Division, and those motor vehicles of the First Division used and registered as school buses. (Section 1-217 of the Code)

(Source: Amended at 24 Ill. Reg. 12009, effective JUL 31 2000)

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Section 441.APPENDIX J Stop Signal Arm Panel through Trash Container (optional)

a) STOP SIGNAL ARM PANEL

PROCEDURES/SPECIFICATIONS:

A stop signal arm panel must be installed on the left side of the bus and may be operated either manually or mechanically. Decals may be used in lieu of painting.

Buses manufactured on or after September 1, 1992 must be equipped with an octagon-shaped semaphore which meet the requirements listed below under "Octagon."

Buses manufactured prior to September 1, 1992 may either be equipped with an octagon-shaped semaphore which meets the requirements listed below under "Octagon" or a hexagon shaped semaphore which meets the requirements listed below under "Hexagon."

Octagon - The arm shall be an octagon-shaped semaphore which measures at least 450 mm x 450 mm (17.72 inches x 17.72 inches) in diameter. The arm shall be red on both sides with a white border at least 12 mm (.47 inches) wide on both sides. The arm shall have the word "STOP" displayed in white uppercase letters on both sides. The letters shall be at least 150 mm (5.9 inches) in height and have a stroke width of at least 20 mm (.79 inches).

The octagon-shaped stop signal arm shall comply with either (a)(1) or (2) below:

1) The entire surface of both sides of the arm can be reflectorized to meet 49 CFR 571.131; or

2) Each side of the arm shall have at least two red lamps centered on the vertical centerline of the stop arm. One lamp shall be located at the extreme top of the arm and the other at its extreme bottom. The lamps shall light and flash alternately when stop arm is extended and likewise turn off and stop flashing when arm is closed. (49 CFR 571.131) (See Section 441.Illustration A for examples.)

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Hexagon - The arm shall be a hexagon shaped semaphore approximately 18 inches wide and 18 inches long and of 16 gauge metal. The stop arm signal shall have the "STOP" painted on both sides in white letters at least six inches high with a brush stroke approximately 7/8 inch wide. The word "STOP" shall be painted on a panel with red background of approximately 8 inches by 16 inches. Remaining area of stop arm blade is to be painted white with a band of white border at least 1/2 inch wide painted from and rear on both sides as contrast. White portion of stop arm signal shall be reflectorized or shall have double-faced lamps with red lens approximately four inches in diameter located in the top and bottommost position of the blade. These lamps shall light and flash alternately when stop arm is extended and likewise turn off and stop flashing when arm is closed. (Section 12-803 of the Illinois Vehicle Equipment Law) (See Section 441.Illustration A for examples.)

Optional: Strobe lamps are acceptable on stop signal arm panels.

Optional: Additional stop signal arm panels must be located on the left side of the bus. Additional panels must operate in conjunction with the required panel and meet all stop signal arm panel requirements except as follows. The additional panel must not contain any lights, marking or reflective material on the front side of the panel. The additional panel must be located in the rear half of the bus adjacent to the rearmost window.

REJECT VEHICLE IF:

Stop signal arm panel is in poor condition (i.e., faded, peeling, or rusted); lights do not

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operate properly (if installed); is not securely attached; is not operating properly; does not meet requirements; is missing.

b) STORAGE COMPARTMENT (optional)

PROCEDURES/SPECIFICATIONS:

Covered, fire-resistant container securely fastened of adequate strength and capacity for tire chains and tools for minor emergency repairs.

REJECT VEHICLE IF:

If installed, does not meet requirements.

c) SUN VISOR

PROCEDURES/SPECIFICATIONS:

Interior, adjustable, transparent, not less than 6 inches by 30 inches, installed above windshield. Must not interfere with view of interior rear view mirror.

Exemption: Buses purchased prior to August 1967 are exempt from having a transparent sun shield.

Exception: For school buses that meet the definition of a Type I-A school bus, as defined in Section 441.40, the sun visor may meet manufacturer's standards.

REJECT VEHICLE IF:

Sun visor does not meet requirements.

d) SUSPENSION

1) Shocks

PROCEDURES/SPECIFICATIONS:

Bus shall be equipped with front and rear double-acting shock absorbers compatible with manufacturer's rated axle capacity.

With vehicle on a hoist or jacked up, visually inspect shock absorbers for excessive leakage, looseness of mounting, brackets,

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and bolts.

Physically grab upper and lower portion of shock inspecting for looseness in rubber bushing, mounting brackets or bolts.

REJECT VEHICLE IF:

Shocks are missing, broken, or have severe leakage (not slight dampness) occurs. Mounting bolts or mounts are broken or loose, or rubber bushing is partially or completely missing.

2) Springs

PROCEDURES/SPECIFICATIONS:

A) Coil

Visually inspect:
i) Spring
ii) Control arms
iii) Torque arms (rear)

REJECT VEHICLE IF:

Coil is missing, disconnected, broken, loose bushings, welded or damaged.

B) Leaf

PROCEDURES/SPECIFICATIONS:

With use of a pry bar and using frame as a pivot, attempt to pry front and rear spring attachments and check for movement. Front of vehicle must be jacked up on chassis for checking front suspension. Visually inspect:

i) Springs
ii) Shackles
iii) Hangers
iv) U-bolts
v) Center bolts
vi) Bushings or pivot

REJECT VEHICLE IF:

Springs are missing or broken. Shackles or "U" bolts worn or loose. Center bolt in springs sheared or broken. Steering stops allow tire to rub on frame or metal. Any leaves are cracked or missing. Any shackle,

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shackle pins, hangers, or "U" bolts are worn, loose, or missing.

C) Torsion Bar (Stabilizer Bar)

PROCEDURES/SPECIFICATIONS:

Visually inspect:

i) Torsion bar
ii) Mounting brackets
iii) Control arms
iv) Torque arms (if applicable - rear)
v) Stabilizer bar(s) (if applicable)

REJECT VEHICLE IF:

Torsion bar is missing, disconnected, broken, loose, welded, damaged.

e) TOW HOOKS (optional)

1) Front

PROCEDURES/SPECIFICATIONS:

A front tow hook must not extend beyond the front of the front bumper. Each front tow hook not fastened securely to the chassis frame shall be connected to the frame by suitable braces.

REJECT VEHICLE IF:

Tow hook(s) extend beyond bumper; not securely attached.

2) Rear

PROCEDURES/SPECIFICATIONS:

Any tow hook(s) installed on the rear shall be attached or braced to the chassis frame or to an equivalent structural member of an integral type bus. A tow hook must not extend beyond the rear face of the rear bumper.

REJECT VEHICLE IF:

Tow hook(s) extend beyond bumper; not securely

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attached.

f) TRASH CONTAINER (optional)

PROCEDURES/SPECIFICATIONS:

A trash container may be present. If present, it must be securely stored in the vehicle and must not obstruct an aisle.

REJECT VEHICLE IF:

Optional trash container does not meet requirements.

(Source: Amended at 24 Ill. Reg. 12089, effective JUL 31 2000)

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1) Heading of the Part: Minimum Safety Standards for Construction of Type I School Buses

2) Code Citation: 92 Ill. Adm. Code 440

3)

Section Numbers:	Adopted Action:
440.220	Amend
440.420	Amend

4) Statutory Authority: Implementing Article VIII of Chapter 12 and authorized by Section 12-812 of the Illinois Vehicle Code [625 ILCS 5/Ch. 12, Art. VIII].

5) Effective Date of amendments: July 31, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: March 24, 2000, 24 Ill. Reg. 4930

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were necessary.

13) Will these amendments replace an emergency amendment currently in effect? Yes

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: This adopted amendment is identical to the text of the emergency amendment to this Part filed March 10, 2000. The emergency amendment changed the Department's standards governing the size and shape of sun visors required to be installed and inspected on Type I school buses. This adopted amendment replaces the emergency amendment that expires August 7, 2000.

16) Information and questions regarding this adopted amendment shall be directed to:

Ms. Cathey Allen, Regulations Unit
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212
(217) 785-1181

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The full text of the adopted amendments begins on the next page:

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TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER e: TRAFFIC SAFETY (EXCEPT HAZARDOUS MATERIALS)

PART 440
MINIMUM SAFETY STANDARDS FOR CONSTRUCTION
OF TYPE I SCHOOL BUSES

SUBPART A: INTRODUCTION

Section
440.10 Order
440.20 Guidelines
440.30 Responsibilities

SUBPART B: GENERAL

Section
440.110 Purpose
440.120 Scope
440.130 Applicability
440.140 Effective Date
440.150 Quantified Requirements

SUBPART C: DEFINITIONS

Section
440.205 Dictionary Used
440.210 Federal Definitions
440.220 State Definitions

SUBPART D: CERTIFICATION

Section
440.305 Certification by Manufacturer
440.310 Federal Standards
440.320 State Standards

SUBPART E: BODY REQUIREMENTS

Section
440.405 Conformance to the Requirements
440.410 Incorporation by Reference of Federal Motor Vehicle Safety Standards
440.420 State Requirements

SUBPART F: CHASSIS REQUIREMENTS

Section
440.505 Conformance to the Requirements
440.510 Incorporation by Reference of Federal Motor Vehicle Safety Standards
440.520 State Requirements

ILLUSTRATION A Hexagon Shaped Stop Signal Arm (Repealed)
ILLUSTRATION B Octagon Shaped Stop Signal Arm Panel
APPENDIX A Federal Motor Vehicle Safety Standards (FMVSS) and Related Regulations (Repealed)
APPENDIX B First Aid Kit Requirements (Referred to in Section 440.420(k)) (Repealed)
APPENDIX C Specification Sheet Reflective Material -- Encapsulated Lens (Based on FHWA Notice N 5040.17, June 15, 1976) (Repealed)

AUTHORITY: Implementing Article VIII of Chapter 12 and authorized by Section 12-812 of the Illinois Vehicle Code [625 ILCS 5/Ch. 12, Art. VIII].

SOURCE: Filed June 20, 1977; amended at 6 Ill. Reg. 7147, effective June 2, 1982; codified at 8 Ill. Reg. 15502; amended at 11 Ill. Reg. 15947, effective September 21, 1987; amended at 12 Ill. Reg. 8463, effective May 3, 1988; amended at 16 Ill. Reg. 1655, effective January 14, 1992; amended at 17 Ill. Reg. 3530, effective March 2, 1993; amended at 18 Ill. Reg. 14764, effective September 20, 1994; amended at 22 Ill. Reg. 19354, effective October 15, 1998; expedited correction at 23 Ill. Reg. 5918, effective October 15, 1998; emergency amendment at 24 Ill. Reg. 4993, effective March 10, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 12111, effective JUL 31 2000.

NOTE: In this Part, unless the context clearly indicates otherwise, superscript numbers or letters are denoted by parentheses; subscript are denoted by brackets.

SUBPART C: DEFINITIONS

Section 440.220 State Definitions

The terms referred to in Section 440.210 are applicable to this Section unless any definitions are displaced either by a statutory definition in 625 ILCS 5 or by a definition found below:

"ANSI" means the American National Standards Institute (11 West 42nd Street, New York, N.Y. 10036).

"Body" means the portion of a bus that encloses the occupant and cargo spaces and separates those spaces from the chassis frame, engine compartment, driveline, and other chassis components, except certain chassis controls used by the driver.

"Body-on-Chassis" means a completed vehicle consisting of a passenger

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seating body mounted on a truck type chassis (or other separate chassis) so that the body and chassis are separate entities, although one may reinforce or brace the other.

"The Code" means the Illinois Vehicle Code [625 ILCS 5].

"Driver" means *Every person who drives or is in actual physical control of a vehicle.* [625 ILCS 5/1-116]

"Empty Weight" means the "unloaded vehicle weight"; i.e., the weight of a vehicle with maximum capacity of all fluids necessary for operation of the vehicle but without cargo or occupant (49 CFR 571.3), plus 350 lbs allowance for driver and equipment.

"FMVSS" means the Rules and Standard(s) set forth in Part 571 in Title 49 of the Code of Federal Regulations (49 CFR 571) and known as "Federal Motor Vehicle Safety Standards".

"Forward Control" means a configuration in which more than half of the engine length is rearward of the foremost point of the windshield base and the steering wheel hub is in the forward quarter of the vehicle length (49 CFR 571.3)-includes mid-engine and rear-engine "pusher" buses.

"Gross Vehicle Weight Rating" or (GVWR) means the value specified by the manufacturer as the loaded weight of the school bus. [625 ILCS 5/12-800]

"Incomplete Vehicle" means an assemblage consisting, as a minimum, of frame and chassis structure, power train, steering system, suspension system, and braking system, to the extent that those systems are to be part of the completed vehicle, that requires further manufacturing operations (other than the addition of readily attachable components such as mirrors or tire and rim assemblies or minor finishing operations, such as painting) to become a completed school bus for use in Illinois. (Based on 49 CFR 568.3).

"Integral Type" bus means a completed vehicle either without separate body and chassis or with body and chassis joined into one unit.

"m", following a numeral, means either "meter" or "meters".

"mm", following a numeral, means either "millimeter" or "millimeters".

"Manufacturer" (unless otherwise indicated at the point of use) means the person or organization whose name follows "MANUFACTURED BY" or "MFD BY" on the label required in Section 440.310.

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"Multiple Glazed Unit" means two or more sheets of safety glazing material separated by air space(s) and assembled in a common mounting (ANSI Z26.1-1996).

"Passenger" means every bus occupant who is not the driver.

"SAE" means the Society of Automotive Engineers (400 Commonwealth Drive, Warrendale, Pennsylvania 15096).

"School Bus" -

Type I School Bus - A School Bus with gross vehicle weight rating of more than 10,000 pounds.

Type II School Bus - A School Bus with gross vehicle weight rating of 10,000 pounds or less. [625 ILCS 5/12-800]

Every motor vehicle, except as provided below, owned or operated by or for any of the following entities for the transportation of persons regularly enrolled as students in grade 12 or below in connection with any activity of such entity:

Any public or private primary or secondary school;

Any primary or secondary school operated by a religious institution; or

Any public, private or religious nursery school.

This definition shall not include the following:

A bus operated by a public utility, municipal corporation or common carrier authorized to conduct local or interurban transportation of passengers when such bus is not traveling a specific school bus route but is:

On a regularly scheduled route for the transportation of other fare paying passengers;

Furnishing charter service for the transportation of groups on field trips or other special trips or in connection with other special events; or

Being used for shuttle service between attendance centers or other educational facilities.

A motor vehicle of the first division.

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A motor vehicle designed for the transportation of not less than 7 nor more than 16 persons that is operated by or for a public or private primary or secondary school, including any primary or secondary school operated by a religious institution, for the purpose of transporting not more than 15 students to and from interscholastic athletic or other interscholastic or school sponsored activities. [625 ILCS 5/1-182]

"SI" means "Systeme International d'Unites" (International System of Units); officially abbreviated SI in all languages; the "modernized metric system" defined in ANSI IEEE-ASTM-SI-10-1997.

The symbol ", following a numeral, means either "inch" or "inches".

"Type I-A School Bus" means a term commonly used by school bus manufacturers to classify a school bus that is a conversion or body constructed upon a van-type or cutaway front-section vehicle with a left side driver's door, designed for carrying more than 10 persons. The Type I-A school bus has a Gross Vehicle Weight Rating (GVWR) of more than 10,000 pounds.

(Source: Amended at 24 Ill. Reg. 12111, effective JUL 31 2000)

SUBPART E: BODY REQUIREMENTS

Section 440.420 State Requirements

Except for mirrors, which may project 153 mm (6") beyond each side of the bus, a school bus shall not exceed 2.44 m (8 feet) in width, 4.12 m (13 feet 6 inches) in height, nor 12.81 m (42 feet) in length. [625 ILCS 5/15-102, 15-103 and 15-107] Each bus body shall be constructed so as to preclude road splash, road dust, or the bus engine's fumes or gas entering either the driver, passenger, or service entrance space through any joint, crack, hole, or opening other than an opened door or window. In addition, various portions of the bus body shall conform to the requirements set forth under the following subsections.

a) Aisle. An aisle, easily negotiated ("easily negotiated" means that an aisle meets the dimension requirements set forth in this subsection from front of bus to back of bus) and free of tripping hazards ("tripping hazards" are tears, wrinkles and other imperfections in the floor covering material, or the floor itself causing the walking surface to be uneven), shall extend from the forward edge of the service entrance stairway to the emergency door in the rear of the bus or, when such door is absent, to the forward edge of the rearmost seat. This aisle shall be no less than 305 mm (12") wide at every location between floor covering and the top of each seat cushion and,

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in a bus manufactured in July 1987 or later, shall be no less than 380 mm (15") wide at and above a level 50 mm (2") below the top of any seat back. At least 1.75m (68.9") floor-to-ceiling height shall be provided above the entire required width of this aisle between the forward edge of the rearmost seat and the forward edge of the service entrance stairway. A dedicated aisle that conforms to 49 CFR 571.217 may be adjacent to any side emergency door.

b) Battery. Either one battery or two or more suitably connected batteries may be installed.
 1) When rated in conformance with SAE Standard J537h the battery(s) shall provide a current flow for engine cranking no less than the engine manufacturer's recommended Cold Cranking Current (amperes for 30 seconds) at -18° C (0° F) or, at the purchaser's option, at -29° C (-20° F).
 2) When rated in conformance with SAE Standard J537h the battery(s) shall provide a Reserve Capacity (duration of 25 ampere current flow) at 27° C (80° F) no less than 135 minutes.
 AGENCY NOTE: If the purchaser needs to provide for extended cold weather bus operation immediately after malfunction or failure of the battery charging equipment he should specify battery reserve capacity, and temperature, commensurate with the temperature and duration of extended operation needed.

c) Battery Carrier. When the battery is mounted outside the engine compartment it shall be attached securely in a closed, weather-tight, and vented compartment that is located and arranged so as to provide for convenient routine servicing. The battery compartment door, or cover, shall be secured by an adequate manually operated latch(es) or other fastener(s). Each electrical cable connecting the battery(s) in this carrier to the body or chassis shall be one-piece between the battery terminal connector and the first body or chassis terminal connector.

d) Bumper, Rear. The rear bumper shall be of channel type cross section with the top edge at least 225 mm (8.9") above the bottom edge, shall be formed from rolled steel at least 4.55 mm (.18") thick, and shall wrap around the rear corners of the body to a point at least 300 mm (11.8") forward of the rearmost point of the body at floor line. The rear bumper shall be attached to the chassis frame with provisions for removal by means of commonly available hand tools and the prevention of hitching-to or riding thereon. The rear bumper shall be of sufficient strength to permit the bus being pushed by another vehicle without permanent distortion.

e) Capacity, Passenger. *The vehicle maximum passenger capacity recommended by the manufacturer of the bus shall be based upon a provision for 13 inches of seating space for each passenger, exclusive of the driver.* [625 ILCS 5/12-802] Examples: A seat 990 mm (39") in width provides 3 passenger spaces; A seat 985 mm (38.8") in width provides 2 passenger spaces; A device resembling a seat but less than 330 mm (13") in width would not provide a passenger space. Neither a

space not conforming to FMVSS 222 nor the driver's space shall be counted as a passenger space. However, any space used for transporting an orthopedically challenged passenger shall be counted as a passenger space when computing passenger capacity to be displayed on the exterior of the bus as required in subsection (t)(7).

f) Certificate and Registration Card Holder. At least 1 card holder with a transparent face no less than 150 mm by 100 mm (5.9" by 3.9") shall be securely affixed to the interior header panel out of the students' easy reach.

g) Color and Paint, Exterior. *The exterior of each school bus shall be national school bus glossy yellow except as indicated in subsections (g)(1)-(6):*

1) *The rooftop may be white.* A white roof may extend only to within six inches above the drip rails on the sides of the body. The front and rear roof caps shall remain national school bus glossy yellow.

2) *Body trim, rub rails, lettering other than on a stop signal arm and bumpers shall be glossy black* (Federal Standard No. 595a, glossy black enamel No. 170381).

3) *Lettering on a stop signal arm shall be white on a red background.*

4) *The hood and upper cowl may be lusterless black* (595a, 37038) *or lusterless school bus yellow.*

5) *Grilles on the front, lamp trim and hubcaps may be a bright finish.*

6) *The name or emblem of a manufacturer may be colorless or any color.*

7) *The exterior paint of any school bus shall match the central value, hue and chroma set forth* in this Part. [625 ILCS 5/12-801]

8) Yellow retroreflective tape required by 49 CFR 517.217 can be located on the rear bumper provided the space between the top of the bumper and the bottom of the door is not adequate to accommodate the tape.

AGENCY NOTE: To be certain of glare reduction, a purchaser should specify a lusterless paint.

h) Crossing Control Arm:

1) *Required on school buses manufactured after December 31, 1997.* [625 ILCS 5/12-807.2] (See P.A. 90-108, effective July 14, 1997.)

2) Must meet or exceed SAE J1133.

3) Must be capable of full operation between, and including, the temperatures -40 degrees F and 160 degrees F.

4) The arm, when activated, must extend a minimum of five feet from the front face of the bumper.

5) The arm must be mounted on the far right side (entry side) of the front bumper.

6) Appropriate brackets shall be used to attach the arm to the front bumper for proper operation and storage.

7) All component parts must meet or exceed any applicable federal motor vehicle safety standards in effect at the time of manufacture.

8) The arm must extend at the same time the stop arm panel extends. An independent "on/off" switch is prohibited.

9) If the driver can stop the arm from extending with the use of an optional override switch, the arm sequence must automatically reset once the service door is closed.

10) Red lights and/or red reflectors are prohibited.

i) Defrosters. Defrosting equipment shall be installed so as to help keep the window to the left of the driver and the glass in the service door clear of fog or frost. This defrosting equipment shall conform to those FMVSS 103 (49 CFR 571.103) performance requirements that are applicable to school bus windshields.

j) Emergency Exits. All emergency exits shall conform to the applicable requirements of FMVSS 217 (49 CFR 571.217).

1) Each opening for a required emergency exit must be outlined around its exterior perimeter with, at a minimum, 1 inch (2.54 cm) wide yellow retroreflective tape. This yellow retroreflective tape must be on the exterior surface of the bus and conform to all requirements of 49 CFR 571.217.

2) Both audible and visible alarms shall alert the driver when the engine is running and any emergency exit door either:

A) Is not fully latched, or

B) Is locked and not readily operated manually.

3) An audible alarm shall alert the driver when the engine is running and any emergency exit window either:

A) Is not fully latched, or

B) Is locked and not readily operated manually.

4) The engine starting system shall not operate while any emergency exit door or window (optional or required) is locked from either inside or outside the bus. "Locked" means that the release mechanism cannot be activated and the exit cannot be opened by a person at the exit without a special device such as a key or special information such as a combination.

5) An alarm cut-off or "squelch" control is prohibited.

6) Exception: No alarm is required for roof hatches.

k) Fire extinguisher.

AGENCY NOTE: At least one fire extinguisher must be carried in each school bus transporting pupils but the purchaser may elect to install an extinguisher that conforms to the requirements below after the bus is purchased.

The fire extinguisher shall be of the dry chemical type, with pressure gauge, mounted in a quick-release bracket of automotive type located in view of and readily accessible to the driver, except when carried in the locked compartment authorized under subsection (u) below. The fire extinguisher shall be of a type approved by the Underwriters' Laboratories, Inc., with a rating not less than 10-BC. The operating mechanism shall be sealed with a type of seal that will not interfere

with the use of the fire extinguisher. Halon fire extinguishers (10-BC) are approved.

l) First-Aid Kit.

AGENCY NOTE: A first aid kit must be carried in each school bus transporting pupils but the owner may elect to install a kit that conforms to this subsection after the bus is purchased.

1) The first aid kit must be readily identifiable and readily accessible to the driver. The kit must be dust tight and substantially constructed of durable material. If the kit is not carried in the locked compartment as authorized in subsection (u)(2), it must be in view of the driver.

2) The first aid kit must include, but is not limited to, the following:

A) 4" bandage compress - 2 packages

B) 2" bandage compress - 2 packages

C) 1" bandage or adhesive compress - 1 package

D) 40" triangle bandage with two safety pins - 1

E) Splint, wire or wood - 1

3) A tourniquet or any type of ointment, antiseptic or other medicine cannot be included.

m) Floor Covering.

1) All portions of the floor that come in contact with passengers' or driver's footwear shall be covered with a waterproof material. This floor covering shall not crack when subjected to sudden temperature change and shall be bonded securely to the floor with a waterproof substance. All seams and openings shall be filled with a waterproof sealer.

2) The floor covering in the aisles and entrance area shall be of non-skid, wear-resistance type material commonly used in commercial passenger transportation vehicles.

n) Fuel System.

The fuel system shall conform to all applicable provisions of FMVSS 301 (49 CFR 301).

o) Glazing Materials.

1) The following applies to glazing on Type I school buses:

A) Laminated safety glass is optional on Type I school buses. All applicable provisions of FMVSS 205 (49 CFR 205) apply to the optional laminated safety glass and also to any plastic material(s) used in multiple-glazed unit, including meeting the pertinent tests indicated below, that are specified in ANSI Standard Z26.1-1996, Z26.1a-1996, and are grouped in Table No. 1 of that Standard. Glazing shall be identified as shown below.

Glazing installed in:	Shall meet tests grouped in Z26.1 Table No. 1 under:	Shall bear one of the following identification markings:
Windshield	Item 1, either laminated glass or multiple glazed unit;	AS 1 Glass;
Window or door forward of rear-most location of driver's seat back		AS 1 Glass, or AS 2 Glass;
All Other locations		AS 1 Glass, or AS 2 Glass, or AS 3 Glass.

B) In addition, any exposed plastic layer of a multiple glazed unit shall be identified in conformance with FMVSS 205 (49 CFR 571.205).

2) All glazing shall be installed so the identification markings are legible.

p) Heaters.

1) An interior temperature of not less than 10 degrees Celsius (50 degrees F) shall be maintained throughout the bus while the bus is moving at 75 kilometers per hour (46.6 miles per hour) in calm air at the average minimum January temperature, as established by the Weather Bureau, U.S. Department of Commerce, for the area in which the bus is to be operated.

2) Each heater shall bear a nameplate that shall identify the heater manufacturer and state the heater capacity rating when tested as recommended in SAE Recommended Practice J638, or when tested in accordance with other nationally recognized standard or code. The recommended practice, standard, or code under which the heater is rated shall be identified on the nameplate. Such nameplate shall constitute certification by the heater manufacturer that the heater performance is as shown on the plate.

3) Heater hoses shall be supported so as to prevent wear due to vibration. The hoses shall not dangle or rub against the chassis or sharp edges and shall neither interfere with nor restrict the operation of any engine function (such as an emission or ignition control mechanism). Heater hoses shall be protected or baffled between the point at which they enter the passenger compartment and the point of attachment to the heater so that, in the event of hose rupture or disconnection, passengers and/or driver will not be subject to hot water burns.

q) Heater Hose Connections at Engine. Each heater hose connection to the engine shall include a shutoff valve located as close to the engine as practical. Such connection and valve shall not interfere with any engine function whether closed, partially open, or fully open, with heater hoses installed properly.

r) Interior.

1) Thermal and acoustic material(s) shall be installed in the ceiling and the sides of the body to reduce heat transfer and the interior noise level.

2) The passenger compartment of the bus, including the ceiling, shall be free of any visible or concealed projections likely to cause injury. Exposed lapped joints shall be connected and/or treated to reduce likelihood of injury from exposed edges. Materials or components in the passenger compartment located within 59 inches from the floor shall be free of any sharp corner or projections or shall be padded so as to make injury unlikely.

s) Lamps and Signals.

1) Alternately Flashing Signal Lamps. Each bus shall be equipped with an eight lamp alternately flashing signal system that conforms to S45.1.4.(b) of FMVSS 108 (49 CFR 571.108) and 625 ILCS 5/12-805. A separate circuit breaker and a master switch shall be provided for this signal system. When in its "off" position, this master switch shall prevent operation of the eight lamp system; shall prevent operation of any lamps mounted on the stop signal arm panel required under subsection (hh); and shall prevent operation of any electrically controlled mechanism that would cause the stop signal arm panel to extend. The controls for the eight lamp flashing signals, the stop signal arm panel, and the service entrance door shall be arranged so as to provide for the following sequence of operations while the engine is running:

A) Place the alternately flashing signal system master switch in its "off" position. Close and secure the service entrance door. Actuate the alternately flashing signal system hand or foot control. The alternately flashing signal lamps of either yellow (amber) or red color shall not go on.

B) With the master switch "off" and the hand or foot control actuated, open the service door. The alternately flashing signals of either color shall not go on and the stop signal arm panel shall not extend.

C) Deactivate the hand or foot control. Place the alternately flashing signal system master switch in its "on" position. Close and secure the service door. Then open the service door. The alternately flashing signal lamps of either color shall not go on and the stop signal arm panel shall not extend.

D) Close and secure the service door. Actuate the alternately flashing signal system by hand or foot control. A yellow pilot lamp in the view of the driver and the yellow alternately flashing signals shall go on.

E) Desecure but do not open the service door. The yellow pilot and the yellow alternately flashing signals shall go off. A

red pilot lamp in the view of the driver and the red alternately flashing signals shall go on. The stop signal arm panel shall extend.

F) Fully open the service door. The red pilot and red signals shall remain on and the stop arm shall remain extended.

G) Close but do not secure the service door. The red pilot and red signals shall remain on and the stop arm shall remain extended.

H) Open the service door. The red pilot and red signals shall remain on and the stop arm shall remain extended.

I) Close and secure the service door. The red pilot and red signals shall go off and the stop arm shall retract.

J) Open the service door. Alternately flashing signals of either color shall not go on and the stop arm shall not extend.

2) Rear Turn Signals. Yellow turn signal lamps shall be mounted on the rear as far apart as practical and as high as practical but below the rear window. The effective projected illuminated area of these turn signal lamps shall be no less than required for the yellow alternately flashing signal lamps required under subsection (s)(1), above; i.e., .0122 m(2)(19 in (2)).

3) Stop Signals. Red stop lamps shall be mounted on the rear as far apart as practical but closer to the vertical centerline of the bus than the rear turn signal lamps required under subsection (s)(2), and at the same height as those turn signal lamps. The effective projected illuminated area of these stop lamps shall be no less than required for the red alternately flashing signal lamps required under subsection (s)(1); i.e., .0122 m(2) (19 in (2)).

4) Side Turn Signals. Two yellow side turn signal lamps conforming to SAE Recommended Practice J914a, August 1973, shall be installed on each bus of more than 32 passenger seating capacity. Except as indicated below, this Recommended Practice shall be read as setting forth mandatory requirements. The lamps shall be "armored" and mounted on the body between the rub rails required under subsection (bb). The right lamp shall be within 1 m (39.4") of the rear of the service entrance but, on a forward control bus, not forward of the front axle. The left lamp shall be approximately the same distance from the front bumper as the right lamp.

5) Interior Lighting. At least the white nosings of the service entrance steps (subsection (ee)(3)), the floor around the stepwell, the entire aisle, and each emergency door and emergency exit shall be illuminated by lamp(s) emitting a white light. At least two interior illumination lamps shall be installed in a bus that provides 330 mm (13") of seating width for each of 33 or more passengers. At least the nosings of the service entrance steps and the floor around the stepwell shall be illuminated

automatically by opening of the service door. No lamp shall be installed at or near the eye level of a pupil moving through the service entranceway to the aisle unless such lamp does not shine directly into the eye(s) of any such pupil.

t) Lettering.

1) General. Except where otherwise required or allowed, lettering on the exterior of the body shall be black against a national school bus glossy yellow background. All required letters and numerals shall conform to Series "B", or heavier series, of the Standard Alphabets for Highway Signs issued by the Federal Highway Administration, Washington, D.C. 20591. Decals may be used instead of paint. Signs, numbers, or letterings, other than those either required by statutes or required or permitted by these standards shall not be affixed permanently on either the exterior of the bus or the interior glazing so as to be visible to the outside. Interior lettering shall contrast with its background.

2) The words "SCHOOL BUS" shall be displayed against a national school bus glossy yellow background as high as practical and approximately centered on the front and rear of the bus body, in letters at least 200 mm (8") high. These words may be painted on or applied to the bus body or displayed on a sign firmly attached to or built into the body. The background of an illuminated sign shall approximate the national school bus glossy yellow color as closely as feasible.

3) A school bus identification number, supplied by the purchaser, shall be displayed as high as practical on the front and rear of the bus in numerals not less than 100 mm (4") high. Such number may be displayed on the sides of the bus as specified by the purchaser.

4) *Either the owner's name or the school district number or both must be displayed on both sides of the bus at least four inches high, approximately centered and as high as practicable below the window line.* (Section 12-802 of the Code) The lettering must be located on one line.

5) The body and/or chassis manufacturer's name, emblem, or other identification may be displayed, colorless or in any color, on any unglazed surface of the bus so as not to be mistaken for the name required in subsection (t)(4) above, and so as not to interfere with any required letters or numerals.

6) The words "EMPTY WEIGHT", or the abbreviation "EMPTY WT.", or the letters "E.W.", followed by the empty weight of the bus (Section 440.220), stated in pounds, shall be displayed on the exterior of the body near the rear edge of the service entrance in numerals and letters at least 50 mm (2") high.

Examples: EMPTY WEIGHT 16,800 lb E.W. 16,800 lb

7) The word "CAPACITY", or the abbreviation "CAP.", and the rated passenger capacity (subsection (e) above) followed by the word "PASSENGERS", or the abbreviation "PASS.", shall be displayed on the exterior of the body near the rear edge of the service entranceway, and on the interior above the right portion of the windshield, in numerals and letters at least 50 mm (2") high.

8) The words "NO STANDEES" shall be displayed only on the interior above the windshield, approximately opposite the aisle but to the right of the mirror and sun visor, in letters at least 50 mm (2") high.

9) The words "EMERGENCY DOOR" or "EMERGENCY EXIT" in letters at least 5 cm high must be displayed on the interior and exterior of the bus. "EMERGENCY DOOR" must be displayed at the top of, or directly above, any emergency exit door. "EMERGENCY EXIT" must be displayed at the top of, or directly above, or at the bottom of, any emergency exit window. They may be displayed on a separate colorless background (such as white, aluminum, or silver) that extends no more than 15 mm (.6") above or below the words and no more than 25 mm (1") to the right or left of the words.

10) A black arrow, curved or straight, at least 150 mm (5.9") in length and 15 mm (.6") in width, showing the direction each exterior emergency exit release mechanism is to be moved to open the emergency exit, shall be painted or permanently affixed on the exterior yellow portion of the bus within 150 mm (5.9") of each release mechanism.

11) An arrow showing the direction each interior emergency exit release mechanism is to be moved to open the emergency exit shall be painted or permanently affixed on the interior of the bus within 150 mm (5.9") of each emergency exit release mechanism. Each interior arrow shall contrast with its background and, where suitable space is limited, may be smaller than the exterior arrow(s) but must be conspicuous.

12) Alternate Fuel

A) *If the bus uses alternate fuel (e.g., propane, CNG), the vehicle must be marked with an identifying decal. Such decal shall be diamond shaped with white or silver scotchlite letters one inch in height and a stroke of the brush at least 1/4 inch wide on a black background with a white or silver scotchlite border bearing either the words or letters:*

"PROPANE" = If propelled by liquefied petroleum gas other than liquefied natural gas; or

"CNG" = If propelled by compressed natural gas. The sign or decal shall be maintained in good legible condition.

B) *The alternate fuel decal shall be displayed near the rear bumper and visible from the rear of the vehicle.* (Section 12-704.3 of the Code)

13) For buses manufactured after December 31, 1998, the vehicle's length (rounded up to nearest whole foot) must be displayed on the interior bulkhead clearly within the driver's view. (For example: vehicle length of 39.1 feet will be displayed as 40 feet.)

14) A "Stop Line" in contrasting color is required between 5.9 and 6.1 inches below the top of each side window opening. The line shall be located between each window that slides downward.

u) Locked Compartment (Optional). If specified by the purchaser, a lockable compartment may be installed for storage of fire extinguisher, first-aid kit, warning devices, wheel chocks, or other items.

1) The compartment locking device shall be connected with an automatic audible and visible alarm that will alert the driver when the engine is running and the compartment is locked. No alarm disconnect, "squelch control", or other alarm defeating mechanism shall be installed.

2) A red cross, formed of five equal squares, and the words "FIRST-AID KIT" shall be displayed on the compartment door, or cover, if the first-aid kit is to be carried in the locked compartment.

3) The words "FIRE EXTINGUISHER" shall be displayed on the compartment door, or cover, if the fire extinguisher is to be carried in the locked compartment.

v) Metal Treatment.

1) Unless excluded below, all steel or iron used in construction of the bus body and attached equipment shall be either resistant to atmospheric corrosion, or zinc coated, or treated by equivalent process. Particular attention shall be given to each fastener or attaching device, lapped surface, welded connection or fastening, cut edge, punched or drilled hole, surface subjected to abrasion, closed or box section, and any unvented or undrained area or space. The number of unvented or undrained areas or spaces is to be minimized. Excluded are door handles, grab handles, and interior decorative parts.

2) As evidence that above requirements have been met, a sample of fastener, material, or section of body, coated or finished as installed in the bus, when subjected to a 1,000-hour salt spray test in accordance with American Society for Testing and Materials (ASTM) Standard B-117-1997 "Method of Salt Spray (Fog) Testing" shall not exhibit more than 10 percent reduction in weight after all adherent corrosion products are removed.

w) Mirrors.

1) All mirror systems shall conform to the applicable requirements of FMVSS 111 (49 CFR 571.111).

2) More convex mirrors than required above may be installed, if specified by the purchaser.

3) The reflecting surface on the back of each mirror shall be protected from abrasion, scratching, and atmospheric corrosion.

x) Mounting of Body. This subsection does not apply to an integral type bus.

1) After the date of manufacture of the incomplete vehicle the chassis frame shall not be altered so as to extend the wheelbase. Other extension(s) of the chassis frame may be accomplished only by the incomplete vehicle, intermediate, or final-stage manufacturer or by an agent of such manufacturer properly instructed and authorized by such manufacturer to make such extension(s).

2) Insulating material shall be placed at all mounting points between the body and chassis frame. This material shall be at least 5 mm (.2") thick, may have the quality of the sidewall of an automobile tire, and shall be so secured that it will not move, vibrate, or "crawl" out of place during normal operations.

3) The body front shall be attached and sealed to the chassis cowl so as to prevent the entry of water, dust, or fumes through the joint between the chassis cowl and the body.

y) Radio Noise. For buses manufactured after December 31, 1998, radio/stereo speakers must be located at least four feet behind the rearmost position of the driver's seat.

AGENCY NOTE: Two-way communication radios are allowed.

z) Rack, Book. Not permissible.

aa) Reflectors.

1) Front

A) *Two yellow rigid or sheet type (tape) front reflex reflectors shall be attached securely and as far forward as practicable.* (Section 12-202 of the Code) They shall be located between 15 and 60 inches above the roadway at either fender, cowl, or body and installed so as to mark the outer edge of the maximum width of the bus. No part of the required reflecting material may be obscured by a lamp, mirror, bracket, or any other portion of the bus. No part of the required reflecting material may be more than 11.8 inches (300 mm) inboard of the outer edge of the nearest rub rail. The reflector may be any shape (e.g., square, rectangle, circle, oval, etc.). A rigid type reflex reflector may be any size if permanently marked either DOT, SAE A, or SAE J 594; otherwise, it shall display at least seven square inches of reflecting material (about three inch diameter if a solid circle).

B) A sheet type (tape) reflex reflector which conforms to FMVSS 108 (49 CFR 571.108 (S5.7.1.2)) may be used but its forward projected reflecting area shall be at least eight square inches.

2) Left Side
One amber at or near the front and one red at or near the rear. Mounted at a height not less than 15 inches and not more than 60 inches above the surface of the road. On sides of buses 20 feet or more in length, one amber as near center as practicable must also be provided. (Section 12-202 of the Code) The reflector must measure a minimum of three inches in diameter.

3) Right Side
One amber at or near the front and one red at or near the rear. Mounted at a height not less than 15 inches and not more than 60 inches above the surface of the road. On sides of buses 20 feet or more in length, one amber as near center as practicable must also be provided. (Section 12-202 of the Code) The reflector must measure a minimum of three inches in diameter.

4) Rear
Two red reflectors on rear body within 12 inches of lower right and lower left corners. (Section 12-202 of the Code) The reflector must measure a minimum of three inches in diameter.

bb) Rub Rails.

1) Rub rails of longitudinally corrugated or ribbed steel at least 100 mm (3.9") wide shall be fixed on the exterior of the bus.

2) There shall be one rub rail located approximately at seat level that shall extend from the rear of the service entrance completely around the bus body without interruption, except at a rear emergency door or a rear compartment, to a point of curvature near the front of the body on the left side.

3) There shall be one rub rail on each side located approximately at floor line that shall extend over the same longitudinal distance as the rub rail required under subsection (bb)(2), above, except:
A) This rub rail need not extend across a wheel housing, and
B) This rub rail may terminate at the radii of the right and left rear corners of the body.

4) Each rub rail required above shall be fastened to the bus body so as to attain at least 60 percent of the tensile strength of the weakest joined material, when strained in a direction parallel to the length of the rub rail.

5) Each joint in a rub rail required above shall be constructed so as to attain at least 60 percent of the tensile strength of a jointless length of rub rail, when strained in a direction parallel to the length of the rub rail.

6) More than two rub rails may be installed on a side and/or the rear of a bus.

cc) Seating. Each seat and each barrier are required to conform to FMVSS 222 (49 CFR 571.222).

1) Seat, Driver's. The driver's seat shall be rigidly positioned, and shall afford both vertical and fore-and-aft adjustments of not less than 100 mm (3.9"), without the use of a tool or other non-attached device. The shortest distance between the steering wheel and the back rest of the operator's seat shall be no less than 280 mm (11").

2) Seats, Students'.
A) Each seat (except as provided in subsection (cc)(4)) shall be constructed so that the shortest straight-line distance from the top of the seat back to the empty seat cushion is 28" when measured near the transverse center of the seat at the front of the seat back and along the angle of rearward inclination of the seat back. Since the height of a seat back is difficult to measure precisely on a repeated basis, a measurement of 27.5" or more is deemed acceptable.
B) Each seat shall be forward facing (except as provided in subsection (cc)(4)).
C) A flip-up seat may be located only immediately adjacent to any side emergency door. The flip-up seat must conform to the following:
i) The seat must be designed so that, when in the folded position, the seat cushion is flat against the seat back to prevent a child's limb from becoming lodged between the seat cushion and seat back.
ii) The seat must be designed to discourage a child from standing on the seat cushion when in the folded position.
iii) The working mechanism under the seat must be covered to eliminate any tripping hazard.
iv) All sharp metal edges on the seat must be padded to prevent any snagging hazard.
v) No portion of the door latch mechanism can be obstructed by a seat.
vi) There must be at least 11.7 inches (30 cm) measured from the door opening to the seat back in front.
D) For buses manufactured on or after January 1, 1999, optional seat safety belts must be installed according to specifications provided by the bus body manufacturer. This may include reinforced seats and seat frames.

3) Barriers, Students'. The vertical distance from the floor covering to the top of a barrier positioned in front of a student's seat (as required by 49 CFR 571.222) shall measure not less than the vertical distance from the floor covering to the top of the seat back on the seat installed behind that barrier.

4) In the case of a seat to be occupied by a student with special needs, the seat back, forward facing, and barrier requirements of subsections (cc)(2) and (3) shall be changed only as necessary to meet the needs of the student with special needs (e.g., seat missing to accommodate wheelchair, hard surfaced stretcher installed to accommodate child who is not capable of sitting in a upright position) (see 92 Ill. Adm. Code 444).

dd) Seatbelt(s), Driver's.

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1) Each driver's seatbelt assembly shall be arranged so that all portions of the assembly remain above the floor when not in use. Any retractor(s) installed shall be of the automatic locking type.
2) Buses manufactured after December 31, 1998 must be equipped with a lap belt/shoulder harness design for the driver.

ee) Service Entrance and Door.
1) The service entrance shall be located on the right side near the front, in unobstructed and convenient view of the driver. The service entrance shall have a minimum vertical opening of 1.7 m (67") and a minimum horizontal opening of 610 mm (24").
2) A steel grab handle not less than 250 mm (9.8") in length shall be firmly attached in an unobstructed location on the left side of the entranceway as a person enters the bus.
3) The bottom step in the entranceway shall not extend beyond the exterior of the body. With all seats empty, the bottom step shall be not less than 300 mm (11.8") and not more than 400 mm (15.7") from the roadway. At least two steps shall be provided. The steps shall be enclosed. Risers shall be approximately equal. Each step, including the floor at the top riser, shall be surfaced with a nonskid material with a 40 mm (1.6") to 80 mm (3.1") white nosing as an integral piece.
4) The service door shall be either manually or power operated by the seated driver. When in the closed and secured position, the door operating mechanism shall prevent accidental opening but shall afford prompt release and opening by the driver. No exposed parts of a door operating mechanism shall come together so as to shear or crush finger(s). The vertical closing edge(s) of a service door shall be padded to lessen chance of injury.
5) A power operated door shall be equipped for emergency manual operation in case of power failure. Instructions for emergency operation of a power operated door shall be affixed permanently on the interior of the door in letters at least 12 mm (.5") high.
6) A single-section service door shall be hinged at the front of the service entrance.
7) Glazed panels shall be installed in the service door to afford the driver a view of small children outside the door, traffic signs, and intersecting roadways. The bottom of each lower glass panel shall not be more than 10 inches from the top surface of the bottom step. The top of each upper glass panel shall not be more than 3 inches from the top of the door.
8) Service Door Lock (Optional). If ordered by the purchaser, a lock may be installed on or at the service door. Any type service door locking system installed in the bus shall conform to at least one of the following requirements.
A) Requirement 1: A locking system shall not be capable of preventing the driver from easily and quickly opening the service door; or

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B) Requirement 2: A locking system that is capable of preventing the driver from easily and quickly opening the service door shall include an audible and visible alarm to alert the driver when the engine is running and the service door is locked. No alarm disconnect, "squelch control", or other alarm defeating or attenuating device shall be installed; or
C) Requirement 3: A locking system shall not be capable of preventing the driver from easily and quickly opening the service door except when, and only when, a person outside the bus uses a key that is not capable of locking more than one of at least 1000 of the door manufacturer's key locking systems.

ff) Steering Wheel Clearance. The rim grip of the steering wheel shall have at least 50 mm (2") clearance in all directions, except at the spokes.
gg) Steps, Body Front. On each side at the front of the body at least one grab handle and recessed foothold or folding stirrup step shall be installed so as to provide easy access to the windshield for cleaning purposes.
hh) Stop Signal Arm Panel.
1) A stop signal arm panel must be installed on the left side of the bus that conforms to 49 CFR 571.131. The panel may be operated either manually or mechanically. Decals may be used in lieu of painting. Strobe lamps are acceptable on stop signal arm panels.
2) "Operated ... mechanically" shall be interpreted to include power operation. Also, "16-gauge metal" shall be interpreted to include thicker metal and any nonmettalic material equivalent or superior to hot rolled 16-gauge mild steel in stiffness, corrosion resistance, and durability.
3) Section 440.Illustration B depicts the octagon shaped semaphore required in subsection (hh)(1).
4) When demonstrating conformance with signal operating requirements by performing the sequence of operations specified under subsection (s)(1), the driver, or operator, may employ any independent or manual operation or disconnection of the stop signal arm panel that is provided for convenient use by the seated driver without using any type of tool and without removing any unattached part.
5) Additional stop signal arm panels may be added at the purchaser's request. Additional panels must be located on the left side of the bus. Additional panels must operate in conjunction with the required panel and meet all stop arm panel requirements except as follows. The additional panel must not contain any lights, marking or reflective material on the front side of the panel. The additional panel must be located in the rear half of the bus adjacent to the rearmost window.

ii) Storage Compartment(s) (Optional).

1) If installed, the storage compartment(s) shall be fire-resistant and of adequate strength and capacity for the storage of the items to be carried, such as tire chains, tow chains, tools for roadside or minor repairs, school activity equipment, etc. The compartment(s) shall provide reasonable security for the contents and shall be constructed and installed so as to preclude passenger injury due to the compartment(s) or the contents becoming dislodged when the bus is subjected to the maximum possible braking force and to minimize chances of such injury when the bus is subjected to a collision impact.

2) If a relatively small storage compartment is located inside the passenger compartment, seat cushion(s) alone may not serve as the cover for the compartment.

jj) Sun Visor. An interior, adjustable, transparent, tinted sun visor not less than 150 mm (5.9") high by 760 mm (29.9") wide shall be so installed that it can be turned up and will remain up when not in use. It may be supported so that it can be moved for use on the driver's left, but when used in front of the driver and in a position approximately parallel to the windshield it shall be supported at or near each of its ends so as to minimize its vibration. Exception: For school buses that meet the definition of a Type I-A school bus, as defined in Section 440.220, the sun visor may meet manufacturer's standards.

kk) Tow Hook, Rear (Optional). Any tow hook(s) installed on the rear shall be attached or braced to the chassis frame, or to an equivalent structural member of an integral type bus. A tow hook may not extend beyond the rear face of the rear bumper.

ll) Undercoating. The underside of the body, including floor members and the side panels below the floor, shall be coated with a fire-resistant undercoating material applied by the spray method so as to seal, insulate, reduce corrosion, and reduce interior noise. Non-metallic components need not be coated.

mm) Ventilation. The body shall be equipped with a controlled ventilation system of sufficient capacity to maintain a satisfactory ratio of outside to inside air under cool and cold operating conditions without opening of windows. With a powered ventilation system, air outlet openings shall be located, sized, and manufactured so that, with doors and windows closed, a positive pressure is maintained in the driver and passenger spaces, to lessen chances of dangerous gas entering such spaces. Fresh air inlet(s) shall be located so as to minimize entrance of either dangerous engine gas or obnoxious engine fumes.

nn) Warning Devices. *Either three red cloth flags not less than 12 inches square and three red reflectors a minimum of three inches in diameter or three bi-directional emergency triangles that conform to 49 CFR 571.125.* (Section 12-702 of the Code) The kit must be securely stored.

AGENCY NOTE: A school bus must carry warning devices when on the public roads, but the bus purchaser may elect to install warning devices after the bus is purchased.

oo) Weight Distribution and Gross Weight. Storage or cargo spaces, if installed, and seats shall be located so that when the bus is fully loaded as specified or advertised by the manufacturer the loads exerted on the roadway will exceed neither a tire load rating, nor a gross axle weight rating, nor the gross vehicle weight rating indicated by the data displayed on the label permanently affixed in compliance with Section 440.310.

pp) Wheel Housings.

1) Each wheel housing opening shall allow for unimpeded wheel and tire service or removal.

2) Each rear wheel housing shall provide the clearance recommended in SAE Information Report J683a, August 1985, for installation and use of tire chains on the dual or single tires installed on the rear wheels.

qq) Windows or Glazed Panels, Rear. Glazed panels, or windows, shall be installed in the rear of the bus so as to afford the seated driver a reflected view through the rear of the bus as wide and as high as practical without unduly weakening or increasing the cost of the body structure. Such view shall be as low as allowed by the back(s) of the rear seat(s) except that, when the aisle required under subsection (a), extends to a rear emergency door, an additional lower glazed panel shall be installed to afford the driver an additional view through such panel at least the width of the required aisle and as low and high as practical.

rr) Window Openings, Side. This subsection does not apply to a window or glazed panel installed forward of a front passenger seat, and are optional for a window installed either beside a rear passenger seat, or in a side emergency exit.

1) By sliding downwards each side window not excluded above shall provide an opening (for emergency egress) at least 560 mm (22") wide (fore & aft) and at least 230 mm (9") high. However, with the window in its lowest position the opening shall be at least 460 mm (18.1") above the seating surface of any passenger seat. Any latch located in the side window opening shall be recessed. Each such opening shall be free of exterior or interior window guard(s) or bar(s). Split-sash windows may be installed. Each exposed edge of glass shall be banded.

2) A horizontal "Stop Line" shall be affixed permanently across the stationary structure between each of the windows that can be opened by sliding downwards. The bottom of the line shall be between 150 mm and 155 mm (5.9" and 6.1") below the top of the window opening. The line shall contrast with the color of the stationary structure and be at least 5 mm (.2") wide.

ss) Windshield.

1) The windshield shall be large enough to permit the operator to see the highway clearly, and shall be curved or slanted to reduce glare. The front cornerposts and other supports shall be shaped

and located so as to cause as little obstruction to the driver's view of the highway as practical.

2) The windshield shall have a graduated glazing shade band across the top. The definition and boundary of this shade band shall be as recommended in SAE Recommended Practice J100, July 1969.

tt) Wiring. The following applies to wiring in Type I school buses:

1) All wiring for lamps and other electrical devices shall be as recommended for automobiles, motor coaches, and heavy duty starting motor circuits in SAE Recommended Practices J556, J555a, and J541a and in other practices or standards referenced therein, unless preempted by FMVSS.

2) Circuits.

A) Wiring shall be arranged in at least nine regular circuits as follows:

i) Head, tail, stop (brake), and instrument panel lamps;

ii) Clearance lamps and any lamps in or adjacent to step risers;

iii) Interior lamps;

iv) Starter motor;

v) Ignition, emergency exit alarm signal(s), and other alarm signal(s);

vi) Turn signal lamps;

vii) Alternately flashing signal lamps and stop signal arm lamps;

viii) Horn;

ix) Heater and defroster.

B) Any of the above combination circuits, except (vii), may be divided into independent circuits. Whenever feasible, all other electrical functions (sanders, windshield wipers, heaters, defrosters, etc.) shall be provided with independent and properly protected circuits.

3) Each body circuit shall be coded either by numeral(s) and/or letter(s) at approximately 100 mm (3.9") intervals, or by color and numeral(s) and/or letter(s), or by color(s) only. The code(s) shall appear on a diagram of the circuits in a readily accessible location.

4) A separate fuse or circuit breaker shall be provided for at least each circuit required under subsection (tt)(2)(A), except that components of the engine starter and ignition circuits may be protected by other means.

5) Wires not enclosed within the body shall be fastened securely at intervals of not more than 460 mm (18.1").

6) All terminals and splice clips shall be accessible.

7) The chassis manufacturer shall install a readily accessible electrical terminal so that the net body and chassis electrical current flow can be indicated through a chassis ammeter without dismantling or disassembling the chassis component. The chassis wiring to this terminal shall have a current carrying capacity at

least equal to the maximum generator output.

(Source: Amended at 24 Ill. Reg. 12111, effective JUL 31 2000)

DEPARTMENT OF INSURANCE

NOTICE OF EMERGENCY RULES

1) Heading of the Part: Privacy of Personal Information

2) Code Citation: 50 Ill. Adm. Code 4001

3) Section Numbers: Emergency Action:

4001.10	New Section
4001.20	New Section
4001.30	New Section
4001.40	New Section
4001.50	New Section

4) Statutory Authority: Implementing Article XL of the Illinois Insurance Code [215 ILCS 5/1001 through 1024] and Title V of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 through 6827) and authorized by Section 401 and Article XL of the Illinois Insurance Code [215 ILCS 5/401 and 1001 through 1024].

5) Effective Date of Rules: July 31, 2000

6) If this emergency rule is to expire before the end of the 150-day period, please specify the date on which it is to expire:

7) Date Filed with Index Department: July 31, 2000.

8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Department of Insurance's principal office and is available for public inspection.

9) Reason for Emergency: The Department has adopted the emergency rule to establish the date by which persons regulated by the Department must comply with the provisions of Title V of the Gramm-Leach-Bliley Act (GLBA). This Act, which becomes effective November 13, 2000, requires licensees to develop privacy policies, develop systems for implementing those policies and protecting personal information of consumers and customers, and provide notices to all customers prior to either the effective date or a later compliance date established by rule by the regulator. This emergency rule will establish a compliance date of July 1, 2001, for entities regulated by the Department of Insurance. This date is consistent with the compliance date established by federal regulators responsible for enforcing this Act as it applies to federally regulated financial institutions.

By establishing the rule now, the Department provides the necessary certainty licensees need to develop the policies and systems required to comply with the Act in accordance with standards being developed on a national basis.

To delay the promulgation of this rule would lead to confusion and haphazard implementation of the privacy protections. Until the Director establishes a compliance date, the licensees are exposed to legal liability should they fail to implement the GLBA requirements by November 13, 2000. However, it is impossible for licensees to comply by that date since standards for compliance are still under development and are not likely to be adopted until later this year.

DEPARTMENT OF INSURANCE

NOTICE OF EMERGENCY RULES

10) A Complete Description of the Subjects and Issues Involved: Part 4001 will implement Article XL of the Illinois Insurance Code [215 ILCS 5/1001 through 1024] and Title V of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 through 6827) which govern the treatment of personal information about individuals by all licensees of the Illinois Department of Insurance. Pursuant to Sections 6804 and 6805 of the GLBA (15 U.S.C. 6804 and 6805), this Part establishes the date by which Department licensees must comply with the provisions of the Act.

11) Are there any proposed amendments to this Part pending? No

12) Statement of Statewide Policy Objectives: This rule will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

13) Information and questions regarding this amendment shall be directed to:

Cynthia Stephenson
Staff Attorney
Department of Insurance
320 West Washington
Springfield, Illinois 62767-0001
(217) 782-2867

The full text of the Emergency Rules begins on the next page:

DEPARTMENT OF INSURANCE

NOTICE OF EMERGENCY RULES

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER tt: INSURANCE INFORMATION AND PRIVACY PROTECTION

PART 4001
PRIVACY OF PERSONAL INFORMATION

Section
4001.10 Purpose
EMERGENCY
4001.20 Applicability
EMERGENCY
4001.30 Definitions
EMERGENCY
4001.40 Enforcement
EMERGENCY
4001.50 Effective Date
EMERGENCY

AUTHORITY: Implementing Article XL of the Illinois Insurance Code [215 ILCS 5/1001 through 1024] and Title V of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 through 6827) and authorized by Section 401 and Article XL of the Illinois Insurance Code [215 ILCS 5/401 and 1001 through 1024].

SOURCE: Emergency rules adopted at 24 Ill. Reg. 12137, effective July 31, 2000, for a maximum of 150 days.

Section 4001.10 Purpose
EMERGENCY

This Part will implement Article XL of the Illinois Insurance Code [215 ILCS 5/1001 through 1024] and Title V of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 through 6827) which govern the treatment of personal information about individuals by all licensees of the Illinois Department of Insurance.

Section 4001.20 Applicability
EMERGENCY

This Part applies to all insurers, producers, and other persons licensed or required to be licensed, or authorized or required to be authorized, or registered or required to be registered, or domiciled pursuant to the Illinois Insurance Code. This Part also applies to unauthorized insurers who accept business placed through a licensed surplus line broker in this State, but only in regard to the surplus line placements placed pursuant to Section 445 of the Illinois Insurance Code [215 ILCS 5/445].

Section 4001.30 Definitions

DEPARTMENT OF INSURANCE

NOTICE OF EMERGENCY RULES

EMERGENCY

Director means the Director of the Illinois Department of Insurance. Illinois Insurance Code means any of the Acts in Chapter 215 of the Illinois Compiled Statutes.

Licensee means all insurers, producers, and other persons licensed or required to be licensed, or authorized or required to be authorized, or registered or required to be registered, or domiciled pursuant to the Illinois Insurance Code. Licensee shall also include unauthorized insurers who accept business placed through a licensed surplus line broker in this State, but only in regard to the surplus line placements placed pursuant to Section 445 of the Illinois Insurance Code [215 ILCS 5/445].

Section 4001.40 Enforcement
EMERGENCY

This Part, Article XL of the Code [215 ILCS 5/1001 through 1024], and Title V of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 through 6827) shall be enforced by the Director with respect to all licensees.

Section 4001.50 Effective Date
EMERGENCY

This Part is effective immediately upon filing. In order to provide sufficient time for licensees to establish policies and systems to comply with the requirements of Title V of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 through 6827), effective November 13, 2000, and the provisions of this Part, the Director has extended the time for compliance with Title V of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 through 6827) and this Part until July 1, 2001.

DEPARTMENT OF PUBLIC AID

JULY 2000 REGULATORY AGENDA

a) Part(s) (Heading and Citation Code): Practice in Administrative Hearings (89 Ill. Adm. Code 104)

1) Rulemaking:

A) Description: The Department plans to propose amendments to the medical vendor hearing rules regarding instances when the recovery of money is warranted, such as reimbursement overpayments. The new provisions will set forth separate provisions for providers of in-patient services, such as hospitals and long term care facilities, as compared to other provider types. The amendments will prohibit involuntary withholding by the Department on inpatient facilities during the pendency of a hearing, but will not preclude the provider from voluntarily allowing the Department to recover money concerning an overpayment, prior to the completion of any hearing.

B) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

C) Schedule of Meeting or Hearing Dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.

D) Date Agency Anticipates First Notice: The Department has not determined when the Notice of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.

E) Effect on Small Businesses, Small Municipalities, and Not-For-Profit Corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency Contact Person for Information:

Joanne Jones
Office of the General Counsel
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763
(217) 524-0081

G) Related Rulemakings and Other Pertinent Information: None

DEPARTMENT OF PUBLIC AID

JULY 2000 REGULATORY AGENDA

b) Part(s) (Heading and Code Citation): Medical Assistance Programs (89 Ill. Adm. Code 120)

1) Rulemaking:

A) Description: Pursuant to a new State law, a Medicaid Buy-In program will be implemented for working persons with disabilities as described in section 1902(a)(10)(A)(ii)(XV) of the Social Security Act. The Department plans to propose rulemaking for this new Medicaid program for individuals with disabilities who are at least 16 years of age, but fewer than 65 years of age, and who, except for earned income, would be eligible to receive supplemental Security Income (SSI), whether or not they ever actually received SSI benefits. The Department has discretion under federal law to impose cost sharing charges on a sliding scale as an eligibility requirement for coverage. Medical coverage will be the same as benefits provided to all other Medicaid eligible persons.

B) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and 305 ILCS 5/5-2.11

C) Schedule of Meeting or Hearing Dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.

D) Date Agency Anticipates First Notice: The Department has not determined when the Notice of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.

E) Effect on Small Businesses, Small Municipalities, and Not-For-Profit Corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency Contact Person for Information:

Joanne Jones
Office of the General Counsel
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763
(217) 524-0081

G) Related Rulemakings and Other Pertinent Information: None

c) Part(s) (Heading and Code Citation): Medical Payment (89 Ill. Adm. Code 140)

1) Rulemaking:

A) Description: The Department plans to propose rulemaking to implement the Non-Emergency Transportation Services Prior Approval Program (NETSPAP). The Request for Proposal (RFP) on NETSPAP was published by the Department of Central Management Services on March 27, 2000. The Department is in the process of awarding the contract, under which the awardee will manage and operate the prior approval process, that is currently handled by Department of Human Services (DHS) local office staff. Proposed amendments are planned for the transfer of the Hemophilia Program from DHS to the Department. The Illinois Hemophilia Program pays only for Illinois residents that have financially qualified for the Program. The Program is a payer of last resource: after Medicare and/or private insurance, after other government agencies, and after a patient's determined participation fee, if applicable, and if the patient is not eligible for public assistance at the time of the service being billed. The Department has operated this program since July 1998. The Department intends to implement a time limitation for submittal of Medicare/Medicaid crossover claims. Proposed rulemaking will require providers to submit a Medicare/Medicaid crossover claim on a timely basis in accordance with federal regulations. Currently there is no such constraint. Proposed amendments will be filed on specific record keeping requirements for medical transportation providers that are consistent with current requirements set forth in the Department's Transportation Provider Handbook. Studies by the Office of Inspector General have identified medical transportation as the most error prone provider class enrolled in the Medical Assistance Program. In accordance with Public Act 91-0799, the Department will propose amendments on payment for appropriate services, including assessment, care planning, discharge planning and treatment, that are provided by nursing facilities for residents who have a serious mental illness. The Department also plans to add provisions to better manage admissions of persons with mental illness to nursing facilities. The Department intends to update the rules concerning waiver programs to reflect that the two Home and Community Based Services (HCBS) waivers, Model Waiver I and Model Waiver II, have been combined under one waiver. The Department has also determined that the rules should be amended to include personal assistance services in the HCBS waivers for medically fragile, technology dependent, disabled persons under age 21 years, to provide a more consistent service level within the children's waiver and the physical disabilities waiver for persons up to age 59 years. Because the children's waiver does not currently have personal assistance services, transition to the physical disabilities waiver after the age of 21 years is difficult. Addition of personal assistance services into the children's waiver will allow a smoother transition into adulthood and increased independence for waiver participants. The Department anticipates rulemaking to delete the date when physician certification requirements are met as an option for initiating Medicaid payments for long term care. Although the date of the physician certification will not be used to begin long term care payment, the completion of a physician certification will be required prior to authorization of Medicaid payment pursuant to federal regulations (42 CFR 456.360). The Department plans to review all rules regarding cost reporting requirements and allowable costs for long term care facilities. These rules will be updated and clarified as appropriate. The Department does not plan to implement significant changes in policy. The Department anticipates rulemaking as a result of Public Law 104-315 that deleted annual resident review as a federal requirement. As one of the final steps under Public Act 87-996 in the transfer of responsibility to DHS for administering programs for persons with developmental disabilities (including Medicaid funded intermediate care facilities (ICF/MR)), DHS will adopt its own rules relating to ICF/MR facility services and responsibilities. Rules relating to ICF/MR facilities currently under the Department will be amended accordingly. Amendments to clarify the coverage of private automobiles as a means of transportation to a medical service are planned by the Department. Current rules do not provide any criteria for enrolling private automobiles as providers of service. The Department will propose that reimbursement for transportation by private automobiles should be limited to continuous services or a chronic medical condition rather than an occasional appointment. The Department plans to propose changes to the administrative rules to incorporate the Illinois State Board of Pharmacy requirements for the practice of pharmacy in Illinois. Incorporating these requirements is necessary because the Health Care Financing Administration holds the Department responsible for monitoring compliance for Medicaid recipients. The language for the rules of the Department of Professional Regulation reflects the federal regulations. The Department plans amendments to continue phased in implementation of the Recipient Eligibility Verification system by incorporating technological enhancements into REV to improve medical provider response to the system. Additionally, the definition of high volume providers will be determined. In accordance with Public Act 88-554, all medical providers defined as "high volume" must participate in the REV Program. The Department plans to propose rulemaking to amend the current provisions on audits to allow vendors 45 days to respond to audit

DEPARTMENT OF PUBLIC AID

JULY 2000 REGULATORY AGENDA

findings, to allow additional documentation for reaudit and to provide that only one reaudit will be conducted. If a response is not received, the matter will be referred for administrative hearing to recover the amounts sought. Proposed changes will be made to define prohibited marketing activities and the Department's responsibility for approving marketing plans. The changes will be made to implement a process for the registration, credentialing, rejection, termination and reinstatement of marketing representatives. Certain marketing activities are prohibited by State and federal law. These activities include unsolicited door-to-door or cold call marketing and marketing at Department offices or DHS offices. The Department is further required to establish guidelines for approving marketing plans submitted by managed care entities. The guidelines must include the stated prohibitions as well as criteria for offering gifts, favors or inducements to enroll in a managed care plan.

B) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

C) Schedule of Meeting or Hearing Dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.

D) Date Agency Anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.

E) Effect on Small Businesses, Small Municipalities, and Not For Profit Corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency Contact Person for Information:

Joanne Jones
Office of the General Counsel
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002
(217) 524-0081

G) Related Rulemakings and Other Pertinent Information: None

d) Part(s) (Heading and Code Citation): Reimbursement for Nursing Costs for

DEPARTMENT OF PUBLIC AID

JULY 2000 REGULATORY AGENDA

Geriatric Facilities (89 Ill. Adm. Code 147)

1) Rulemaking:

A) Description: The Department intends to amend provisions relating to intermediate care facilities for persons with developmental disabilities (ICF/MR). As one of the final steps under Public Act 87-996 in the transfer of responsibility to DHS for administering programs for persons with developmental disabilities (including Medicaid funded ICFs/MR), DHS will adopt its own rules relating to ICF/MR services and responsibilities. Rules relating to ICF/MR facilities currently under the Department will be amended accordingly.

B) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

C) Schedule of Meeting or Hearing Dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.

D) Date Agency Anticipates First Notice: The Department has not determined when the Notice of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.

E) Effect on Small Businesses, Small Municipalities, and Not For Profit Corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency Contact Person for Information:

Joanne Jones
Office of the General Counsel
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763
(217) 524-0081

G) Related Rulemakings and Other Pertinent Information: None

e) Part(s) (Heading and Code Citation): Hospital Services (89 Ill. Adm. Code 148)

1) Rulemaking:

DEPARTMENT OF PUBLIC AID

JULY 2000 REGULATORY AGENDA

A) Description: By modification of the Glen D Consent, the Department intends to add provisions to the rules allowing the Department to discontinue pre-payment reviews for hospitals that have demonstrated low denial rates for medical necessity. Amendments will be proposed for the transfer of the Chronic Renal Diseases Program from DHS to the Department. The Chronic Renal Disease Program assists patients who have not qualified for Public Aid benefits and is supplementary to all other resources, including Medicare, private insurance and private income. The Department has operated this program since July 1998. Amendments will also be proposed for the transfer the Sexual Assault Survivors Emergency Treatment Program from DHS to the Department. The purpose of the Illinois Sexual Assault Survivors Emergency Treatment Act is to reimburse certified Illinois transfer centers or treatment hospitals for outpatient emergency room services to alleged sexual assault survivors who are not covered by private insurance and are not eligible for Medicaid. The Department took over this program in July 1998.

B) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

C) Schedule of Meeting or Hearing Dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.

D) Date Agency Anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.

E) Effect on Small Businesses, Small Municipalities, and Not-For-Profit Corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency Contact Person for Information:

Joanne Jones
Office of the General Counsel
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763
(217) 524-0081

G) Related Rulemakings and Other Pertinent Information: None

DEPARTMENT OF PUBLIC AID

JULY 2000 REGULATORY AGENDA

f) Part(s) (Heading and Code Citation: Child Support Enforcement (89 Ill. Adm. Code 160)

1) Rulemaking:

A) Description: The Department plans to revise provisions on the establishment of voluntary paternity. When the Department first began establishing paternity administratively, the voluntary paternity acknowledgment process currently found in the Vital Records Act had not yet been passed by the General Assembly. However, after it became law, the Department adopted it for purposes of acknowledgments under the administrative paternity process. The Vital Records process requires that where a presumed father exists (i.e., a husband), a mother and an alleged father cannot complete an acknowledgment of paternity unless the presumed father signs the document denying his paternity of the child. When rule revisions were made, the provision allowing acknowledgment without a signed denial by the presumed father was not changed to comply with Vital Records requirements. The Department plans to add the necessary changes to the administrative rules pertaining to voluntary acknowledgment of paternity.

B) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

C) Schedule of Meeting or Hearing Dates: The Department has not established a schedule of dates for hearings, meetings, or other opportunities for public participation in this rulemaking.

D) Date Agency Anticipates First Notice: The Department has not determined when the Notice of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.

E) Effect on Small Businesses, Small Municipalities, and Not-For-Profit Corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency Contact Person for Information:

Joanne Jones
Office of the General Counsel
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor

DEPARTMENT OF PUBLIC AID

JULY 2000 REGULATORY AGENDA

Springfield, Illinois 62763
(217) 524-0081

G) Related Rulemakings and Other Pertinent Information: None

JOINT COMMITTEE ON ADMINISTRATIVE RULES

JAMES R. THOMPSON CENTER
ROOM 16-503
CHICAGO, ILLINOIS
10:30 A.M.
AUGUST 15, 2000

NOTICES: Due to *Register* submittal deadlines, the Agenda below may be incomplete. Other items not contained in this published Agenda are likely to be considered by the Committee at the meeting.

It is the policy of the Committee to allow only representatives of State agencies to testify orally on any rule under consideration at Committee hearings. If members of the public wish to express their views with respect to a proposed rule, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:

Joint Committee on Administrative Rules
700 Stratton Office Building
Springfield, Illinois 62706

RULEMAKINGS SCHEDULED FOR JCAR REVIEW

The following rulemakings are scheduled for review at this meeting. JCAR staff may be proposing action with respect to some of these rulemakings. JCAR members may have questions concerning, and may initiate action with respect to, any item scheduled for JCAR review and any other issues within the Committee's purview.

PROPOSED RULEMAKINGS

Elections

1. The Campaign Financing Act (26 Ill Adm Code 100)
 -First Notice Published: 23 Ill Reg 12924 - 10/22/99
 -Expiration of Second Notice: 9/2/00

2. Practice and Procedure (26 Ill Adm Code 125)
 -First Notice Published: 23 Ill Reg 12913 - 10/22/99
 -Expiration of Second Notice: 9/2/00

3. Established Political Party and Independent Candidate Nominating Petitions (26 Ill Adm Code 201)
 -First Notice Published: 23 Ill Reg 12013 - 10/8/99
 -Expiration of Second Notice: 9/2/00

4. New Political Party Nominating Petitions (26 Ill Adm Code 202)
 -First Notice Published: 23 Ill Reg 12016 - 10/8/99
 -Expiration of Second Notice: 9/2/00

Environmental Protection Agency

JOINT COMMITTEE ON ADMINISTRATIVE RULES

JAMES R. THOMPSON CENTER
ROOM 16-503
CHICAGO, ILLINOIS
10:30 A.M.
AUGUST 15, 2000

5. Procedures for Reporting Releases of Livestock Waste From Lagoons (35 Ill Adm Code 580)
 -First Notice Published: 23 Ill Reg 12507 - 10/15/99
 -Expiration of Second Notice: 9/9/00

Labor

6. Health and Safety (56 Ill Adm Code 350)
 -First Notice Published: 24 Ill Reg 7459 - 5/19/00
 -Expiration of Second Notice: 9/6/00

Pollution Control Board

7. Nonhazardous Special Waste Hauling and the Uniform Program (35 Ill Adm Code 809)
 -First Notice Published: 24 Ill Reg 5854 - 4/7/00
 -Expiration of Second Notice: 9/2/00

Professional Regulation

8. Illinois Architecture Practice Act of 1989 (68 Ill Adm Code 1150)
 -First Notice Published: 24 Ill Reg 6479 - 4/21/00
 -Expiration of Second Notice: 9/6/00

9. Illinois Professional Land Surveyor Act of 1989 (68 Ill Adm Code 1270)
 -First Notice Published: 24 Ill Reg 6500 - 4/21/00
 -Expiration of Second Notice: 9/6/00

10. The Professional Engineering Practice Act of 1989 (68 Ill Adm Code 1380)
 -First Notice Published: 24 Ill Reg 6508 - 4/21/00
 -Expiration of Second Notice: 9/6/00

11. The Structural Engineering Practice Act of 1989 (68 Ill Adm Code 1480)
 -First Notice Published: 24 Ill Reg 6515 - 4/21/00
 -Expiration of Second Notice: 9/6/00

12. Illinois Public Accounting Act (68 Ill Adm Code 1420)
 -First Notice Published: 24 Ill Reg 5874 - 4/7/00
 -Expiration of Second Notice: 9/9/00

Public Health

JOINT COMMITTEE ON ADMINISTRATIVE RULES

JAMES R. THOMPSON CENTER
ROOM 16-503
CHICAGO, ILLINOIS
10:30 A.M.
AUGUST 15, 2000

13. Asbestos Abatement for Public and Private Schools and Commercial and Public Buildings in Illinois (77 Ill Adm Code 855)
 -First Notice Published: 23 Ill Reg 10108 - 8/27/99
 -Expiration of Second Notice: 9/8/00

Revenue

14. Retailers' Occupation Tax (86 Ill Adm Code 130)
 -First Notice Published: 24 Ill Reg 7470 - 5/19/00
 -Expiration of Second Notice: 8/23/00

15. Retailers' Occupation Tax (86 Ill Adm Code 130)
 -First Notice Published: 24 Ill Reg 3128 - 2/25/00
 -Expiration of Second Notice: 8/23/00

16. Alcoholic Liquor Act (86 Ill Adm Code 420)
 -First Notice Published: 24 Ill Reg 7466 - 5/19/00
 -Expiration of Second Notice: 8/23/00

17. Tobacco Product Manufacturers' Escrow Act (86 Ill Adm Code 445)
 -First Notice Published: 24 Ill Reg 7489 - 5/19/00
 -Expiration of Second Notice: 8/23/00

Treasurer

18. College Savings Pool (23 Ill Adm Code 2500)
 -First Notice Published: 24 Ill Reg 6389 - 4/14/00
 -Expiration of Second Notice: 9/25/00

EMERGENCY AND PEREMPTORY RULEMAKINGS

Central Management Services

19. Pay Plan (80 Ill Adm Code 310) (Emergency)
 -Notice Published: 24 Ill Reg 10328 - 7/14/00

20. Pay Plan (80 Ill Adm Code 310) (Peremptory)
 -Notice Published: 24 Ill Reg 10767 - 7/21/00

Human Services

21. Office of Inspector General Adults with Disabilities Abuse Project (59 Ill Adm Code 51) (Emergency)
 -Notice Published: 24 Ill Reg 10362 - 7/14/00

JOINT COMMITTEE ON ADMINISTRATIVE RULES

JAMES R. THOMPSON CENTER
ROOM 16-503
CHICAGO, ILLINOIS
10:30 A.M.
AUGUST 15, 2000

22. Comparable Benefits (89 Ill Adm Code 567) (Emergency)
-Notice Published: 24 Ill Reg 10358 - 7/14/00

23. Services (89 Ill Adm Code 590) (Emergency)
-Notice Published: 24 Ill Reg 10372 - 7/14/00

Public Aid

24. Medical Assistance Programs (89 Ill Adm Code 120) (Emergency)
-Notice Published: 24 Ill Reg 10425 - 7/14/00

25. Medical Payment (89 Ill Adm Code 140) (Emergency)
-Notice Published: 24 Ill Reg 10436 - 7/14/00

26. Hospital Services (89 Ill Adm Code 148) (Emergency)
-Notice Published: 24 Ill Reg 10386 - 7/14/00

27. Long Term Care Reimbursement Changes (89 Ill Adm Code 153) (Emergency)
-Notice Published: 24 Ill Reg 10421 - 7/14/00

Revenue

28. Retailers' Occupation Tax (86 Ill Adm Code 130) (Emergency)
-Notice Published: 24 Ill Reg 11313 - 7/28/00

29. Cigarette Tax Act (86 Ill Adm Code 440) (Emergency)
-Notice Published: 24 Ill Reg 10752 - 7/21/00

30. Cigarette Use Tax Act (86 Ill Adm Code 450) (Emergency)
-Notice Published: 24 Ill Reg 10759 - 7/21/00

Transportation

31. Diesel Emission Inspection Program (92 Ill Adm Code 460) (Emergency)
-Notice Published: 24 Ill Reg 9970 - 7/7/00

EXEMPT RULEMAKINGS

Pollution Control Board

32. Pretreatment Programs (35 Ill Adm Code 310)
-Proposed Date: 24 Ill Reg 7590 - 5/26/00
-Adopted Date: 8/4/00

JOINT COMMITTEE ON ADMINISTRATIVE RULES

JAMES R. THOMPSON CENTER
ROOM 16-503
CHICAGO, ILLINOIS
10:30 A.M.
AUGUST 15, 2000

33. Sewer Discharge Criteria (35 Ill Adm Code 307)
-Proposed Date: 24 Ill Reg 7598 - 5/26/00
-Adopted Date: 8/4/00

SECOND NOTICES RECEIVED

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

The following second notices were received by the Joint Committee on Administrative Rules during the period of July 25, 2000 through July 31, 2000 and have been scheduled for review by the Committee at its August 15, 2000 meeting in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
9/8/00	Department of Public Health, Asbestos Abatement for Public and Private Schools and Commercial and Public Buildings in Illinois (77 Ill Adm Code 855)	8/27/99 23 Ill Reg 10108	8/15/00
9/9/00	Environmental Protection Agency, Procedures for Reporting Releases of Livestock Waste From Lagoons (35 Ill Adm Code 580)	10/15/99 23 Ill Reg 12507	8/15/00
9/9/00	Department of Professional Regulation, Illinois Public Accounting Act (68 Ill Adm Code 1420)	4/7/00 24 Ill Reg 5874	8/15/00

Rules acted upon during the calendar quarter from Issue 30 through Issue 42 are listed in the Issues Index by Title number, Part number and Issue number. For example, 50 Ill. Adm. Code 2500 published in Issue 1 will be listed as 50-2500-1. The letter "R" designates a rule that is being repealed. Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-4414 or jnatale@ccgate.sos.state.il.us on the Internet.

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